

**General Assembly**

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Item 72 (a) of the provisional agenda*

**Promotion and protection of human rights:
implementation of human rights instruments**

**Status of the Convention against Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment****Report of the Secretary-General***Summary*

The General Assembly, by its resolution 39/46, adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention entered into force on 26 June 1987. Further, the Assembly, by its resolution 57/199, adopted the Optional Protocol to the Convention, which entered into force on 22 June 2006.

The present report provides updated information on the implementation and status of the Convention, and on the membership for 2007 of the Committee against Torture and of its Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

* A/62/150.



I. Introduction

1. The General Assembly, by its resolution 39/46, adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annex to that resolution, and called upon all Governments to consider signing and ratifying the Convention as a matter of priority.
2. The Convention was opened for signature in New York on 4 February 1985. In accordance with its article 27, the Convention entered into force on 26 June 1987, on the thirtieth day after the date of deposit with the Secretary-General of the twentieth instrument of ratification or accession.
3. The General Assembly, in its resolution 57/199, adopted the Optional Protocol to the Convention. The Protocol was opened for signature on 4 February 2003. In accordance with its article 28, the Protocol entered into force on 22 June 2006, on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

II. Implementation of the Convention

4. In its resolution 61/153, the General Assembly welcomed the work of the Committee against Torture and took note of its report¹ and recommended that the Committee continue to include information on the follow-up by States parties to its recommendations. The Assembly condemned in particular any action or attempt by States or public officials to legalize or authorize torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions. It further urged Governments to take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment; and stressed that all allegations of torture must be promptly and impartially examined and that the perpetrators must be held responsible and severely punished. The Assembly recalled that States should not expel, return ("refouler") or extradite a person to another State where there were substantial grounds for believing that the person would be in danger of being subjected to torture, and recognized that diplomatic assurances, where used, did not release States from their obligations under international human rights, humanitarian or refugee law, in particular the principle of non-refoulement. It further urged all States that had not yet done so to become parties to the Convention and called upon States to give early consideration to signing and ratifying its Optional Protocol; invited all States parties to the Convention that had not yet done so to make the declarations provided for in articles 21 and 22 of the Convention, to consider the possibility of withdrawing their reservations to article 20 and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible; urged States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invited States parties to incorporate a gender perspective and information concerning children, juveniles and persons with disabilities when submitting their reports to the Committee against Torture; called upon the United

¹ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 44 (A/61/44).*

Nations High Commissioner for Human Rights, in conformity with her mandate established in Assembly resolution 48/141, to continue to provide, at the request of Governments, advisory services for the preparation of national reports to the Committee and for the prevention of torture, as well as technical assistance in the development, production and distribution of teaching material for that purpose; urged States parties to take fully into account the conclusions and recommendations made by the Committee after its consideration of their reports; and requested the Secretary-General to submit to the Human Rights Council (at its fifth session) and the Assembly at its sixty-second session a report on the status of the Convention.

III. Status of the Convention

5. As at 18 July 2007, the Convention had been ratified or acceded to by 144 States. In addition, 74 States had signed the Convention.²

6. Under article 21 of the Convention, a State party may at any time declare that it recognizes the competence of the Committee against Torture to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Convention. Under article 22, a State party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State party of the provisions of the Convention.

7. As at 18 July 2007, 51 of the States parties to the Convention had made the declarations provided for in articles 21 and 22 of the Convention. In addition, four States parties had made the declaration provided for in article 21 only, thus bringing the total number of declarations under that article to 55. Five States parties had made the declaration provided for in article 22 only, thus bringing the total of declarations under that article to 56.³

8. The provisions of articles 21 and 22 entered into force on 26 June 1987, in accordance with paragraph 2 of article 21 and paragraph 8 of article 22.

9. As at 18 July 2007, 34 States had ratified or acceded to the Optional Protocol to the Convention. In addition, 58 States had signed the Optional Protocol.

² For the list of States that have signed, ratified or acceded to the Convention, as well as the dates of their signature, ratification or accession, see www.ohchr.org or www.un.org.

³ For the text of declarations and reservations, see www.ohchr.org or www.un.org.

IV. Membership of the Committee against Torture

10. The membership of the Committee for 2007 is as follows:

<i>Member</i>	<i>Term expires in December</i>
Essadia Belmir (Morocco)	2009
Guibril Camara (Senegal)	2007
Felice Gaer (United States of America)	2007
Luis Gallegos Chiriboga (Ecuador)	2007
Claudio Grossman (Chile)	2007
Alexander Kovalev (Russian Federation)	2009
Fernando Mariño Menendez (Spain)	2009
Andreas Mavrommatis (Cyprus)	2007
Nora Sveaass (Norway)	2009
Xuexian Wang (China)	2009

11. The Committee against Torture held its thirty-seventh and thirty-eighth sessions at the United Nations Office at Geneva from 6 to 24 November 2006 and from 30 April to 18 May 2007, respectively. In accordance with article 24 of the Convention, the Committee will submit its annual report, covering its activities at the sessions referred to above, to the States parties and to the General Assembly at its sixty-second session.

V. Membership of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture

12. The membership of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture for 2007 is as follows:

<i>Member</i>	<i>Term expires in December</i>
Silvia Casale (United Kingdom of Great Britain and Northern Ireland)	2008
Mario Coriolano (Argentina)	2008
Marija Definis Gojanovic (Croatia)	2010
Zdenek Hajek (Czech Republic)	2008

<i>Member</i>	<i>Term expires in December</i>
Zbigniew Lasocik (Poland)	2008
Hans Draminsky Petersen (Denmark)	2010
Victor Manuel Rodriguez Rescia (Costa Rica)	2008
Miguel Sarre Iguiniz (Mexico)	2010
Wilder Taylor Souto (Uruguay)	2010
Leopoldo Torres Boursault (Spain)	2010

13. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture held its first and second sessions at the United Nations Office at Geneva from 19 to 23 February 2007 and from 25 to 29 June 2007, respectively. Article 16, paragraph 3, of the Optional Protocol to the Convention requires the Subcommittee to present a public annual report to the Committee against Torture. This report has not yet been presented.



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Items 119, 130, 135 and 142 of the provisional agenda*

United Nations reform: measures and proposals

Proposed programme budget for the biennium 2008-2009

Human resources management

Administrative and budgetary aspects of the financing of the
United Nations peacekeeping operations

Detailed proposals for streamlining United Nations contractual arrangements

Report of the Secretary-General**

Summary

The present report is submitted in response to the requests of the General Assembly in its resolution 61/244, section VI, paragraphs 4 and 5. The report also addresses the observations of the International Civil Service Commission on proposed contractual arrangements. In order to facilitate a review of the issues, the report fully incorporates the substance of A/61/857 on the same topic, includes additional elements arising from subsequent consultations with staff representatives and addresses requests from the Advisory Committee on Administrative and Budgetary Questions and the General Assembly.

* A/62/150.

** The submission of the report was delayed because of the need to verify data.



I. Background

1. In his report entitled "Investing in people" (A/61/255 and Add.1 and Add.1/Corr.1), the Secretary-General presented the details of a new human resources framework, based on the principles of flexibility, clear ethical standards, equitable treatment of staff, simplicity, transparency and accountability, with an emphasis on the need to integrate Headquarters and field staff into one global Secretariat.

2. An essential component of the new human resources framework is the Secretary-General's proposal to streamline contractual arrangements by introducing one United Nations staff contract, which would govern the terms of employment for all United Nations Secretariat staff, and by providing for three types of appointment — temporary, fixed-term and continuing. This proposal builds on previous proposals of the Secretary-General to simplify contractual arrangements¹ and takes into account the framework for contractual arrangements in the organizations of the United Nations common system adopted by the International Civil Service Commission.²

3. The proposal is intended to adapt contractual arrangements to the changing operational needs of the Organization, in order to promote equality of treatment for all Secretariat staff and to respond more effectively to new and increasingly complex mandates. The streamlining of contractual arrangements constitutes a cornerstone of the Secretary-General's comprehensive human resources management reforms. It provides the basis for building an integrated Secretariat with conditions of service that offer increased job security and equity of treatment of staff. Along with the implementation of other human resource reform initiatives, such as greater organizational mobility, harmonization of conditions of service and the establishment of 2,500 civilian career peacekeeping positions, the streamlining of contractual arrangements will considerably strengthen the Organization's ability to recruit and retain staff of high calibre to meet existing and evolving human resource requirements.

4. In its resolution 61/244, the General Assembly requested the Secretary-General to address the conclusions and recommendations related to this subject contained in the report of the Advisory Committee on Administrative and Budgetary Questions on human resources management³ and to present a detailed road map on the implementation of the proposed contractual arrangements, including on eligibility criteria.

5. The General Assembly also requested the International Civil Service Commission to consider the proposals of the Secretary-General, in particular the proposal to introduce one United Nations staff contract under one set of Staff Rules, and to report to it thereon at the second part of its resumed sixty-first session. The Commission considered the Secretary-General's proposals in March 2007 and issued its observations in an addendum to its report for 2006.⁴

¹ See A/55/253 and Corr.1 and A/59/263/Add.1.

² *Official Records of the General Assembly, Sixtieth Session, Supplement No. 30* and corrigendum (A/60/30 and Corr.1), annex IV.

³ A/61/537, paras. 49-56.

⁴ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 30*, addendum (A/61/30/Add.1).

6. In April 2007, the Secretary-General submitted to the Assembly his report "Streamlining United Nations contractual arrangements".⁵ The report summarized the rationale for the proposals to streamline contractual arrangements under one set of Staff Rules, with three types of appointments. The report also addressed certain conclusions of the Advisory Committee on Administrative and Budgetary Questions and the International Civil Service Commission, while noting that other aspects of the Commission's observations required further examination in consultation with United Nations staff and that those consultations would be undertaken in the context of the Staff-Management Coordination Committee. That Committee is the Secretariat-wide joint mechanism established by the Secretary-General, in accordance with the Staff Regulations and Rules, to advise him regarding issues of staff welfare, conditions of work and other Organization-wide personnel policies, and it is the highest level of formal consultation between the staff and the management of the United Nations.

7. The Staff-Management Coordination Committee convened its twenty-eighth session from 25 June to 4 July 2007. The session was attended by management representatives from all major duty stations and staff representatives from the Economic Commission for Africa, the Economic and Social Commission for Asia and the Pacific, the Economic Commission for Latin America and the Caribbean, the Field Staff Union, the United Nations Office at Geneva, the United Nations Office at Nairobi, the United Nations Office at Vienna, the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees and the United Nations University.

8. The Staff-Management Coordination Committee affirmed its support for the proposals to streamline contractual arrangements as set out in the Secretary-General's report (A/61/255) and recommended further clarifications and adjustments. The Secretary-General agreed with the recommendations and endorsed the agreements of the Committee on streamlining contractual arrangements, which were consistent with the principles underlying his proposals and were necessary to achieve the objectives of contractual reform.

9. In order to address the conclusions and recommendations of the Advisory Committee on Administrative and Budgetary Questions and the International Civil Service Commission and to facilitate a review of the issues, the present report fully incorporates the substance of A/61/857 and includes additional elements arising from the consultations with staff representatives in the Staff-Management Coordination Committee. The report responds to the observations of the Commission and the Advisory Committee and presents additional information requested by the Advisory Committee and the General Assembly.

10. The separately administered funds and programmes will continue to have flexibility in the implementation of the new contractual arrangements in respect of their own staff, taking into account their respective operational needs.

⁵ A/61/857.

II. Streamlining contractual arrangements under one set of Staff Rules

11. At present, the contractual framework used by the United Nations provides for many different types of appointment under three series of Staff Rules: the 100, 200 and 300 series. In section VI of its resolution 61/244, the General Assembly stressed the need for rationalization of the current United Nations system of contractual arrangements, which lacked transparency and was complex to administer. It also noted that the system did not fully comply with the framework proposed by the International Civil Service Commission.

12. Initially, all staff served under one set of Staff Rules, now known as the 100 series. The first edition of the Staff Rules came into effect on 1 July 1948. The 200 series was introduced in 1954 for specialist personnel working on technical assistance projects, followed by the 300 series in 1955 to cover staff specifically engaged on short-term appointments for conferences and other short-term service at Headquarters. The 400 series was introduced in 1955, applicable to dispatchers and guides in the Visitors Service at Headquarters. In 1978, the 400 series was abolished and dispatchers and guides were subsequently covered by the 100 series. The 300 series was expanded in 1994 to include appointments of limited duration for the recruitment of non-career staff in peacekeeping, peacebuilding and humanitarian missions, technical cooperation in the field and emergency situations. Staff recruited under 300-series appointments of limited duration serve for up to three years, with a possible exceptional extension for a fourth and final year.

13. In developing the new human resources framework, a comprehensive review of the United Nations contractual arrangements was undertaken to examine whether they still met the Organization's operational needs. In the light of accumulated experience, it was determined that the 200 and 300 series no longer serve the purposes for which they were originally introduced. The 200 series was introduced to accommodate the special needs of technical cooperation projects, many of which were expected to be of short or medium duration, and were funded through extrabudgetary sources. However, there is no longer a clear linkage between the nature and duration of functions and the mode of financing. The exponential growth of extrabudgetary funding in the Secretariat for core activities has now led to an increase in 200-series appointments for staff in a variety of functions, many of whom now discharge core functions and serve at established duty stations and field offices, often side by side with 100-series staff members. There are no formal recruitment procedures to ensure an open and competitive process, nor are there any clear means of career advancement for 200-series staff, some of whom have been in service for extended periods and are "reclassified" through informal processes. Moreover, there are limitations on the use of the experience of 200-series staff in other positions of the Secretariat.

14. Appointments of limited duration under the 300 series no longer meet the intended purpose of facilitating rapid recruitment and streamlining the administration of staff. Over the years, safeguards have increasingly been introduced to ensure transparency and competitiveness in the recruitment process and consistency in the application of recruitment standards and procedures (the only difference being a review by a joint advisory body). Administering the compensation package has become increasingly complex as a result of improvements introduced to meet legitimate staff concerns and needs. Moreover,

since appointments of limited duration do not provide adequate compensation or career prospects, their continued use has hindered the ability of the Organization to attract and retain the skilled experts, leaders and managers that are needed in large, multidimensional peace operations.

15. Given the serious shortcomings of the existing system, and in order to introduce a system that would assist the United Nations in fulfilling its mandate and provide greater simplicity, clarity, transparency and fairness for all concerned, the Secretary-General has proposed to streamline the three series of Staff Rules into a single series.

16. A single series of Staff Rules would also promote the equitable treatment of staff members by ensuring that their conditions of service are governed by the same criteria. The multiplicity of contractual arrangements creates different categories of staff members. At established duty stations and in the field, staff serving side by side and performing the same functions for comparable periods of time receive different entitlements depending on the series of Staff Rules under which they were appointed. Such a situation fosters a sense of inequality and undermines staff morale, making it difficult to attract and retain staff.

17. Finally, introducing one set of Staff Rules would simplify the contractual framework, thereby making it easier and more cost-efficient to administer, and more transparent for staff members. Maintaining multiple and complicated contractual arrangements creates difficulties in administration and has significant potential for administrative error, as it requires an in-depth knowledge of the various sets of Staff Rules and of the differences between them. Simplified contractual arrangements would also greatly facilitate the development and implementation of the upcoming enterprise resource planning system.

Observations by the International Civil Service Commission

18. In its recent review of the Secretary-General's proposals, the International Civil Service Commission welcomed the efforts of the Secretary-General to streamline contractual arrangements,⁶ an essential part of which is the introduction of a single set of Staff Rules. When examining conditions of service in the field, the Commission recognized that appointments of limited duration no longer meet the needs of the Organization, limit management's flexibility to retain staff and are no longer simpler to administer. Moreover, the compensation offered is not competitive with that offered in other common-system organizations, which inhibits recruitment and adversely affects morale. Accordingly, the Commission recommended that the 300-series appointment of limited duration be phased out in non-family duty stations in favour of the fixed-term contract as defined in the Commission's contractual framework.⁷ The Secretary-General's proposal to streamline contractual arrangements under one set of Staff Rules is consistent with the Commission's recommendation to phase out the use of 300-series appointments of limited duration.

⁶ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 30, addendum (A/61/30/Add.1), paras. 3 and 4.*

⁷ *Ibid.*, para. 41, and A/61/861, para. 10.

III. Streamlining contractual arrangements by reducing types of appointment

19. Under the current contractual arrangements, which the General Assembly has found to be overly complex and inconsistent with the International Civil Service Commission's contractual framework,⁸ a multiplicity of appointments are possible. There are probationary, fixed-term, indefinite and permanent appointments under the 100 series; short-term, intermediate and long-term appointments under the 200 series; and short-term and limited-duration appointments under the 300 series.

20. As noted above, streamlining contractual arrangements is necessary to meet operational needs, to remove barriers to mobility, to promote equity and transparency and to make contractual arrangements easier to administer and more transparent for staff members. In order to achieve those objectives, another essential element of streamlining contractual arrangements is reducing the types of appointment to three.

21. The Secretary-General proposes that under one set of Staff Rules, the duration of appointment would be determined in accordance with the operational needs of the Organization. The following three types of appointments would be used for all Secretariat functions, departments, duty stations and field missions:

(a) A temporary appointment, which would cover up to a maximum period of one year (or up to two years to meet surge needs in the field), for staff appointed to meet seasonal or peak workloads and specific short-term requirements;

(b) A fixed-term appointment, which could be renewed or extended to cover a maximum period of five years;

(c) A continuing appointment, which would be open-ended.

22. The Secretary-General's proposal to reduce the number of types of appointment to three is designed in conformity with the International Civil Service Commission's framework for contractual arrangements, which also provides for appointments of the durations set out above.

23. Staff members entering the Organization would be offered either a temporary or a fixed-term appointment. Staff members with five years of continuous service with the Organization would be eligible for consideration for a continuing appointment.

24. With the introduction of continuing appointments, permanent appointments would no longer be offered. The change would not affect staff who currently held permanent appointments, or the acquired rights of staff who, by the time the change became effective, would have the right under existing rules to be considered for permanent appointments. The introduction of continuing appointments, which would allow for termination on the same grounds as permanent appointments, as well as in the interest of the good administration of the Organization, would provide a mechanism for the Organization to grant career appointments to long-serving staff who have demonstrated the highest standards of efficiency, competence and integrity, while at the same time ensuring that the Organization can adjust its workforce in accordance with changing needs, functions and mandates or the

⁸ Resolution 61/244, sect. VI.

reorientation of its programmes. The introduction of continuing appointments would also considerably reduce the current administrative burden of processing thousands of renewals of fixed-term appointments when they reach their expiration dates.

25. In A/61/857, the Secretary-General indicated that the details on the three types of appointment will be presented to the General Assembly. Those details are elaborated below, together with the Secretary-General's response to the observations of the International Civil Service Commission on each type of appointment.

Temporary appointments

26. The Secretary-General proposes that temporary appointments be used to appoint staff for seasonal or peak workloads and specific short-term requirements, for a maximum period of one year. For staff appointed to respond to surge requirements in the field, temporary appointments could be given to cover a total duration of up to two years. The Secretary-General considers that this proposal is consistent with the International Civil Service Commission's framework, which provides that temporary appointments would be granted to accommodate the defined, short-term needs of the Organization of less than one year, or for a longer period in the case of short-term service of limited duration with special missions, projects of limited duration and special operations for humanitarian assistance.

27. The Commission noted that

to operate within the ICSC framework, the Secretary-General should use the fixed-term appointment with a two-year limit or make the appointment temporary for not more than one year, with a subsequent renewal if necessary. The Staff Rules should more clearly define the conditions that must be met for renewal of a temporary appointment. Generally, if it is known in advance that the need for services will extend beyond one year, the fixed-term appointment would be the appropriate choice.⁹

Staff given temporary appointments of less than one year would not be subject to a probationary period.¹⁰ The Secretary-General agrees with these observations of the Commission and concurs that temporary appointments would be granted for up to one year at a time, to be renewed for up to an additional year in the field where warranted by operational needs.

Fixed-term appointments

28. The Secretary-General proposes that fixed-term appointments for a period of one year or more could be granted to staff. Fixed-term appointments could be renewed or extended to cover a maximum period of five years. Staff entering the Organization would be subject to a probationary period during their first year of service with the Organization. The Secretary-General considers that this proposal is consistent with the International Civil Service Commission framework, which provides for fixed-term appointments for a duration of at least one year and for a

⁹ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 30, addendum (A/61/30/Add.1), para. 18.*

¹⁰ *Ibid.*, para. 19.

period of up to five years.¹¹ Under the framework, the probationary period may range from six months to two years.

Limitations on fixed-term appointments

29. In A/61/255, the Secretary-General also proposed that, depending on the needs of the Organization, fixed-term appointments could be limited to particular projects or missions, as is currently the case, in order to avoid the creation of undue expectations of long-term employment, particularly where the mandate is clearly finite.¹² The International Civil Service Commission was of the view that the current mission-specific contract does not provide the flexibility needed to move staff among field duty stations and does not respond to the need for a global workforce. The Commission also noted that the 100-series mission-specific contract offers substantially less compensation than that paid under 100-series contracts in other organizations of the common system. In the view of the Commission, the mission-specific contract was not in line with the Commission's framework, as it would create additional types of appointments, resulting in five rather than three types of contract.¹³ The Secretary-General wishes to clarify that his proposal was intended to address the need for fiscal prudence when employing staff for projects and missions with clearly finite mandates.

30. However, taking into account the concerns expressed by the International Civil Service Commission, the Secretary-General has endorsed the recommendation of the Staff-Management Coordination Committee that the contracts of international staff serving in United Nations peace operations no longer carry a limitation for service to a specific mission in order to facilitate his efforts to assign staff to meet evolving operational requirements.

Extension of fixed-term appointments beyond five years

31. In A/61/255, the Secretary-General proposed that the maximum duration of fixed-term appointments would be five years, since it was envisaged that all staff members who had completed five years of continuous service would be considered for continuing appointments; if a staff member's services were no longer needed or if he or she failed to meet the applicable standards, the staff member would be separated at the end of the five-year fixed-term appointment. The International Civil Service Commission considered that the maximum limitation of five years on a fixed-term appointment reduces management's flexibility to assign staff in accordance with the needs of the Organization.¹⁴

32. With respect to peacekeeping, the Secretary-General recognizes that beyond the identified baseline need for 2,500 international career staff in peace operations, as discussed below in paragraph 46, the type of function and numbers of staff needed depend on evolving operational requirements, making it necessary to exercise fiscal prudence when appointing staff for service in missions or projects. However, it is also necessary to address the difficulties experienced by the

¹¹ *Official Records of the General Assembly, Sixtieth Session, Supplement No. 30*, and corrigendum (A/60/30 and Corr.1), annex IV, para. 13.

¹² A/61/255, para. 244.

¹³ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 30*, addendum (A/61/30/Add.1), paras. 5-7.

¹⁴ *Ibid.*, para. 15.

Organization in recruiting and retaining staff for United Nations peace operations. Conditions of service — in particular, job security — constitute the main challenges to retaining skilled, experienced and qualified civilian staff.

33. The Secretary-General therefore proposes that international staff in United Nations peace operations who are not part of the 2,500 international career staff in peace operations and who demonstrate the highest standards of efficiency, competence and integrity should normally be granted extensions of fixed-term appointments of up to two years that would not be limited to service at any particular mission, to meet the identified operational requirements of United Nations peace operations, and could remain on fixed-term appointments as long as their services are needed.

34. Additionally, extensions of fixed-term appointments beyond five years could be permitted in other cases when a brief extension, not to exceed one year, is in the interest of the Organization and the staff member.

35. With regard to the International Civil Service Commission's concern that limiting fixed-term appointments to a maximum duration of five years could create difficulties for the funds and programmes,¹⁵ the Secretary-General notes that the funds and programmes would have the necessary flexibility to extend fixed-term appointments beyond five years in accordance with their operational mandates.

Continuing appointments

36. The Secretary-General proposes that staff with five years of continuous service in the Organization would be considered for a continuing appointment, which would be granted if there were a continuing need for the services of the staff member in the same department or elsewhere in the Organization and if the staff member had demonstrated the highest standards of efficiency, competence and integrity, as documented by his or her performance evaluations. A continuing appointment would be open-ended. The probationary period would not apply to staff members on a continuing appointment, since the five years of service completed by staff members prior to acquiring a continuing appointment would serve as a sufficient basis to evaluate their performance. The Secretary-General considers that this proposal is consistent with the International Civil Service Commission framework, which provides that continuing appointments are open-ended and that continuity of service will be based on criteria such as organizational interests, fully meeting performance expectations and upholding the standards of conduct.

Consideration for continuing appointments

37. The International Civil Service Commission was of the view that the Secretary-General's proposal on continuing appointments would be

tantamount to automatic conversion, because there is no competition, no limit on the number of conversions and essentially everyone would meet the criteria for conversion. Every staff member will have an expectation of conversion to a continuing appointment after five years of service and satisfactory performance ratings.¹⁶

¹⁵ Ibid.

¹⁶ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 30, addendum (A/61/30/Add.1), para. 9.*

38. The Staff-Management Coordination Committee reviewed the Secretary-General's proposals together with the International Civil Service Commission's observations and agreed that his proposals were in line with the Commission's framework for contractual arrangements, which stated that "appointment to a continuing contract is acquired through open and transparent selection procedures in accordance with the organization's staff regulations and rules".¹⁷ In its report, the Staff-Management Coordination Committee expressed the view that the Commission's concern regarding the need for competition in granting continuing appointments would already be addressed by the Organization's competitive staff selection policies, at the point of recruitment or when moving to another post within the Organization. All posts are advertised and subject to a rigorous selection process, including a variety of evaluation criteria and assessment mechanisms. In addition, all staff are subject to annual performance evaluations.

39. As for the eligibility criteria for granting continuing appointments, the Secretary-General considers that five years of continuous service with the Organization would serve only to establish that the staff member is eligible for consideration for a continuing appointment and would not confer a right to automatic conversion. Before the staff member could receive a continuing appointment, two further criteria must also be satisfied: (a) that there is a continuing need for the services of the staff member in the same department or elsewhere in the Organization and (b) that the staff member has demonstrated the highest standards of efficiency, competence and integrity, as documented by his or her performance evaluations.

40. In its resolution 61/244, the General Assembly requested the Secretary-General to provide further details on eligibility criteria for continuing appointments. The Secretary-General considers that the two proposed criteria provide the critical elements that need to be examined when considering staff for continuing appointments and that those criteria, rigorously applied, would ensure that continuing appointments would not be granted on an automatic basis, but on the basis of organizational needs and performance. This view was shared by the Staff-Management Coordination Committee. However, the Secretary-General believes that it could be useful to further elaborate on how the two criteria would be applied, along the lines recommended by the Committee. When applying the criterion of "continuing need", programme managers and the Office of Human Resources Management, Department of Management, would consider whether the services of the staff member would be required by the Organization in the foreseeable future. With regard to the criterion of "highest standards", it would be incumbent on the programme manager and the Office of Human Resources Management to undertake a thorough review of the staff member's performance, including examination of his or her file and performance evaluations. The staff member should have received fully successful performance ratings for four years of United Nations service, and should not have been subject to a disciplinary measure.

41. The Staff-Management Coordination Committee supported the Secretary-General's proposal that staff members eligible for consideration for a continuing appointment would be reviewed by the department or office concerned, by the

¹⁷ Ibid., *Sixtieth Session, Supplement No. 30* and corrigendum (A/60/30 and Corr.1), annex IV, para. 10.

Office of Human Resources Management and, for local staff, by the local human resources office, and approved by the Office of Human Resources Management. In the absence of agreement, or if a continuing appointment was not recommended, the matter would be submitted to a central review body. The Staff-Management Coordination Committee considered that the procedure proposed by the Secretary-General provided adequate safeguards for staff members, while also ensuring that such staff members met the highest standards.

Limitations on continuing appointments

42. In A/61/255, the Secretary-General also proposed that, depending on the needs of the Organization, continuing contracts could be limited to particular projects or missions in order to avoid the creation of undue expectations of long-term employment, particularly where the mandate is clearly finite.¹⁸

43. The International Civil Service Commission did not agree with the concept contained in the Secretary-General's proposal that appointments could be limited to service in a specific peace operation or project in order to avoid expectations of long-term appointment, particularly when the mandate was clearly finite. The Commission's view was that in such cases, continuing appointments should not be granted.¹⁹

44. The Secretary-General recalls that according to the Commission's contractual framework, continuing contracts are "a tool to facilitate the strategic management of human resources for the attainment of their overall objectives".²⁰ Accordingly, he considers that it would be consistent with the framework for continuing contracts without limitations to be used in established offices of the global Secretariat, where the human resources requirements are normally stable in numbers and broad in functions. This recognized a continuing need for a global workforce to perform ongoing functions essential to the overall mandate of the Organization.

45. The Secretary-General recognizes that, unlike the established offices of the rest of the Secretariat, United Nations peace operations, which include peacekeeping operations and special political missions, have historically experienced increases and decreases in staffing requirements, reflecting the types and numbers of peace operations mandated by the Security Council.

46. By means of a thorough examination of the experience of the past decade and strategic human resources planning, the Department of Peacekeeping Operations identified the need for 2,500 international career staff in peace operations to meet baseline requirements in the medium term. The Secretary-General welcomes the support of the International Civil Service Commission²¹ and the Staff-Management Coordination Committee for his proposal that those 2,500 staff should be eligible to be considered for a continuing appointment and could receive such an appointment, provided that they met the requirements of fully successful performance and had demonstrated the highest standards of efficiency, competence and integrity, as

¹⁸ A/61/255, para. 244.

¹⁹ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 30*, addendum (A/61/30/Add.1), paras. 5-6.

²⁰ *Ibid.*, *Sixtieth Session, Supplement No. 30* and corrigendum (A/60/30 and Corr.1), annex IV, para. 1.

²¹ *Ibid.*, *Sixty-first Session, Supplement No. 30*, addendum (A/61/30/Add.1), para. 6.

documented by their performance evaluations. The 2,500 international career staff in peace operations would be selected competitively²² and have an obligation to demonstrate mobility and to rapidly deploy to meet operational requirements.

47. With respect to locally recruited mission staff of United Nations peace operations, the Secretary-General concurs with the recommendation of the Staff-Management Coordination Committee that the Organization has an obligation to offer both greater job security for the duration of a mission and to offer end-of-employment termination benefits that will enable locally recruited mission staff to be gainfully employed, or self-employed, when a mission withdraws. Thus, while most operations can be expected to have a closing date, locally recruited staff members whose services continue to be needed beyond five years of service and who meet the applicable standards would be eligible to receive a continuing appointment. They would receive termination indemnities commensurate with their length of appointment when their service ended, normally with the closure of the mission, thereby encouraging locally recruited staff to remain in their home country and to put to good use the skills and experience gained through service in the Organization. As it is not known when individual peace operations will end, it is not possible at this time to determine the actual costs of possible termination indemnities that would be payable from provisions for common staff costs of the affected peacekeeping missions.

48. The Secretary-General considers that it would not be consistent with the Organization's operational requirements and mobility policy to assess continuing need by reference to a particular mandate, function or post. Since a fundamental principle of the organizational mobility policy is that staff members are not tied to their posts, the characteristics of a particular post should not have a definitive impact on career prospects or job security. If all staff who work in projects or entities with finite mandates were to be ineligible for consideration for continuing appointments, staff would be unwilling to assume posts in projects or entities with finite mandates, thereby undermining the capacity for programme delivery. Accordingly, the Secretary-General considers that staff working on projects could be granted a continuing appointment, which would be without limitation, provided there is a continuing need for the services of the staff member in the same department or elsewhere in the Organization.

Expedited consideration for staff recruited through the national competitive examination

49. The International Civil Service Commission noted that the national competitive examination is a useful tool for selecting the best-qualified candidates from underrepresented Member States for career positions at the P-2 and P-3 levels. The Commission expressed concern that the contractual arrangements that would be offered to national competitive examination candidates, as proposed by the Secretary-General (fixed-term appointments with consideration for continuing appointment after five years), could lead to a decline in the rate of acceptance by national competitive examination candidates, and recommended instead that they be considered for a continuing appointment after two years.²³

²² A/61/850, para. 20.

²³ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 30, addendum (A/61/30/Add.1), para. 12.*

50. The Secretary-General emphasizes that one of the fundamental objectives of the proposal to streamline contractual arrangements is to enhance fairness and consistency in the treatment of staff, while also simplifying administration. He considers that it is important to avoid creating different categories of staff members, with different thresholds for consideration for the continuing appointment. Since staff members joining the Organization at higher levels through rigorous competitive processes, with many years of proven professional experience, would be required to serve five years before consideration for a continuing appointment, the same should apply for national competitive examination staff members, who have few or no years of professional experience before recruitment.

51. While acknowledging that the national competitive examination is an important recruitment tool, the Secretary-General maintains that, for the reasons set out above, there should be no change to the proposal to consider national competitive examination staff members for continuing appointments after five years of continuous service on fixed-term appointments with the Organization, in accordance with the requirement applicable to all other staff members recruited to the Organization through other competitive means. The Secretary-General welcomes the support of the Staff-Management Coordination Committee in this regard, and endorses its recommendation that under the new contractual framework, the Office of Human Resources Management, Department of Management, should carefully monitor the retention rates of staff members recruited through the national competitive examination to ensure that there are no adverse effects arising from the new contractual arrangements.

Termination of continuing appointments

52. In connection with terminations in the interest of the good administration of the Organization, the Advisory Committee requested the Secretary-General to clarify what opportunities for redress would be proposed under the new system.²⁴ The Secretary-General notes that the staff member concerned would be given the opportunity to review the recommendation and supporting documentation and to provide comments to the Assistant Secretary-General for Human Resources Management before a final decision was made. A decision by the Assistant Secretary-General for Human Resources Management to terminate a continuing appointment would constitute an administrative decision that is subject to appeal, pursuant to chapter XI of the Staff Rules. Under staff rule 111.2 (c) (i), a staff member may also request a suspension of action on the decision by writing to the Secretary of the Joint Appeals Board.

Treatment of continuing appointments held by non-Secretariat staff

53. The International Civil Service Commission expressed concern that if continuing contracts were granted by the United Nations only after five years of service on a fixed-term appointment, employment would not be attractive to staff serving in other organizations of the common system who are already on continuing appointments. It was of the view that such a situation could stifle mobility within the common system.²⁵ These observations appear to be premised on the assumption

²⁴ A/61/537, para. 54.

²⁵ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 30, addendum (A/61/30/Add.1), para. 13.*

that staff members who have been granted a continuing appointment elsewhere in the common system would need to begin anew with a fixed-term appointment if they were recruited to serve in the Secretariat. At present, staff members who hold permanent appointments maintain that status when they are recruited from elsewhere in the common system to serve in the Secretariat. This practice would remain the same with respect to permanent and continuing appointments under the new system. There would therefore be no disincentive for staff members of the common system to accept an appointment in the Secretariat.

"Replacement" of permanent appointments in the future

54. The Advisory Committee noted that the "replacement" of permanent contracts, as discussed in the Secretary-General's proposal, should be understood as the "introduction" of continuing contracts and that it does not mean "replacing existing permanent contracts held by current staff members or ... denying those who might be eligible for a permanent contract the opportunity to obtain one".²⁶ The Secretary-General confirms this understanding of the Advisory Committee. The reference in the proposal to the "replacement" of permanent appointments with continuing appointments, instead of the "introduction" of continuing appointments, is made to emphasize that continuing appointments would not simply be created as a new category of appointments in addition to permanent appointments, but would be granted in the future instead of permanent appointments.

IV. Implementation timeline

55. The General Assembly, in its resolution 61/244, requested the Secretary-General to present a detailed road map on the implementation of the proposed contractual arrangements, including eligibility criteria. The eligibility criteria are set out in paragraphs 39 to 41 above.

56. The Secretary-General has identified the actions that will need to be taken within the 6-month and 12-month period following the General Assembly decision on the proposal to streamline contractual arrangements. For the purpose of clarity, the implementation timeline set out below is premised on the assumption that the General Assembly approves the Secretary-General's proposals to streamline contractual arrangements and the amendments to the Staff Regulations during the main part of its sixty-second session. The necessary amendments to staff regulations 4.5 and 9.1 and annex III to the Staff Regulations are set out in annex I to the present report. The references to specific dates below are therefore only illustrative:

(a) The new contractual framework would be introduced on 1 July 2008, and the amended Staff Regulations would come into effect on that date. The new Staff Rules would be issued and promulgated provisionally on 1 July 2008 and reported to the General Assembly. In accordance with staff regulation 12.4, the new Staff Rules, with any modifications and/or deletions by the General Assembly, would enter into full force and effect on 1 January 2009;

(b) For staff holding appointments under the 100, 200 and 300 series, the appointments would be reviewed and converted to appointments under the new Staff Rules, effective 1 July 2008, if their services were needed beyond that date. The

²⁶ A/61/537, para. 49.

duration of such appointments under the new Staff Rules will be either for the remainder of the original appointment held by the staff member or may be extended, as appropriate;

(c) In A/61/255, the Secretary-General indicated that staff members would be given consideration for permanent appointments if they had an acquired right under existing rules to be considered for permanent appointment by the time the change in the contractual framework became effective. Accordingly, all staff members who had accrued five years of continuous service as at 1 July 2008 would be eligible to be considered for conversion to permanent appointments. The evaluation of staff would be conducted on a priority basis between 1 July and 31 December 2008. Thereafter, staff who had accrued five years of continuous service after 1 July 2008 would be considered for a continuing appointment.

57. The Assembly asked the Secretary-General to address the request of the Advisory Committee on Administrative and Budgetary Questions²⁷ for a more complete analysis of the impact of the review of staff members with an acquired right to consideration for conversion to permanent appointments, including possible options to avoid exceeding the 70 per cent level mandated by the Assembly in its resolution 51/226, section V, paragraph 2. In that resolution, the Assembly requested the Secretary-General to make efforts to achieve the level of 70 per cent of permanent appointments in posts subject to geographical distribution.

58. As at 30 June 2007, the proportion of permanent appointments for posts subject to geographical distribution was 52.2 per cent (1,426 out of 2,730). Assuming that the new contractual arrangements will be introduced on 1 July 2008, it is estimated that the total number of staff in posts subject to geographical distribution who will have completed five years of continuous service as at that date will be 632. If all those staff were converted, then the proportion of staff in posts subject to geographical distribution with permanent appointments would be 75 per cent. However, considering that not all of those staff members will receive permanent appointments (since they will need to demonstrate that they have fulfilled the criteria set out in staff rule 104.13) and that the number of staff with permanent appointments will decrease as a result of retirements during the period from 1 July 2007 to 30 June 2008, it is anticipated that the total number of staff with permanent appointments in posts subject to geographical distribution will exceed 70 per cent by only a small margin, if at all.

V. Financial implications

59. The introduction of one United Nations staff contract would require the appointment of staff under a single set of Staff Rules that would offer benefits equivalent to those currently available under the current 100 series of the Staff Rules, with a simplified regime for staff appointed for six months or less. The introduction of one United Nations contract would result in no additional financial implications for the following categories of staff:

- (a) Staff with appointments under the 100 series;

²⁷ A/61/537, para. 55.

(b) Staff with appointments under the 200 series, for whom the benefits are the same as those of 100-series staff;

(c) Staff on short-term appointments (not appointments of limited duration) under the 300 series appointed to serve for six months or less;

(d) Locally recruited staff in United Nations peace operations.

60. Financial implications would arise for the reappointment of international staff currently serving on an appointment of limited duration to a new mission appointment governed by the new United Nations contract, which would entail additional entitlements in the form of education grant, family-visit travel and repatriation grant. As at 30 June 2007, there were 3,339 international staff holding appointments of limited duration in field missions. Accordingly, the reappointment of affected staff under the new contract would result in additional costs estimated at \$23.7 million per annum on the basis of current patterns of dependency and marital status of staff. The \$23.7 million per annum comprises \$3.8 million per annum relating to 9 special political missions and a total of \$19.9 million per annum for 10 peacekeeping missions.

61. The budgets for special political missions are prepared on an annual basis from 1 January to 31 December. Thus, the requirements for the period from 1 July 2008 to 31 December 2008 would amount to \$1.9 million.

VI. Conclusions and recommendations

62. **The General Assembly is requested:**

(a) **To approve the new contractual arrangements and the amendments to the Staff Regulations;**

(b) **In regard to peacekeeping operations, to note that the requirements arising from the change in contractual arrangements for staff from the 300 series to the 100 series would be reflected in the proposed 2008/09 budgets for peacekeeping operations;**

(c) **In regard to the programme budget, to approve the requirements arising from the change in contractual arrangements from the 300 series to the 100 series, amounting to \$1.9 million for the period 1 July 2008 to 31 December 2008 under the provisions for special political missions of section 3, Political affairs, of the proposed programme budget for the biennium 2008-2009.**

Annex I

Proposed amendments to the Staff Regulations

Regulation 4.5

(a) Appointment of Under-Secretaries-General and of Assistant Secretaries-General shall normally be for a period of up to five years, subject to prolongation or renewal. Other staff members shall be granted appointments of either unlimited or fixed duration under such terms and conditions consistent with the present Regulations as the Secretary-General may prescribe.

(b) The Secretary-General shall prescribe which staff members are eligible for each type of appointment.

Regulation 9.1

(a) The Secretary-General may terminate the appointment of a staff member who holds a permanent appointment and whose probationary period has been completed if the necessities of service require abolition of the post or reduction of the staff, if the services of the individual concerned prove unsatisfactory or if he or she is, for reasons of health, incapacitated for further service.

The Secretary-General may also, giving the reasons therefor, terminate the appointment of a staff member who holds a permanent appointment:

(i) If the conduct of the staff member indicates that the staff member does not meet the highest standards of integrity required by Article 101, paragraph 3, of the Charter;

(ii) If facts anterior to the appointment of the staff member and relevant to his or her suitability come to light that, if they had been known at the time of his or her appointment, should, under the standards established by the Charter, have precluded his or her appointment.

No termination under subparagraphs (i) and (ii) shall take place until the matter has been considered and reported on by a special advisory board appointed for that purpose by the Secretary-General.

Finally, the Secretary-General may terminate the appointment of a staff member who holds a permanent appointment if such action would be in the interest of the good administration of the Organization and in accordance with the standards of the Charter, provided that the action is not contested by the staff member concerned.

(b) The Secretary-General may terminate the appointment of a staff member with a fixed-term appointment prior to the expiration date for any of the reasons specified in paragraph (a) above, or for such other reason as may be specified in the letter of appointment.

(c) In the case of all other staff members, including staff members serving on a continuing, temporary or probationary appointment, the Secretary-General may, at any time, terminate the appointment if, in his or her opinion, such action would be in the interest of the good administration of the Organization and in accordance with the Charter, or for any of the reasons specified in paragraph (a) above.

Annex II

Annex III to the Staff Regulations: termination indemnity

Staff members whose appointments are terminated shall be paid an indemnity in accordance with the following provisions:

(a) Except as provided in paragraphs (b), (c) and (e) below and in regulation 9.3 (b), the termination indemnity shall be paid in accordance with the following schedule:

<i>Months of gross salary, less staff assessment, where applicable</i>			
<i>Completed years of service</i>	<i>Permanent and continuing appointments</i>	<i>Indefinite appointments and probationary appointments (for the duration of the probationary period)</i>	<i>Appointments for a fixed duration exceeding six months</i>
Less than 1	Not applicable	Nil)	One week for each month
1	Not applicable	1)	of uncompleted service
2	3	1)	subject to a minimum of
3	3	2)	six weeks' and a
4	4	3)	maximum of three months'
5	5	4)	indemnity pay
6	6	5	3
7	7	6	5
8	8	7	7
9	9	9	9
10	9.5	9.5	9.5
11	10	10	10
12	10.5	10.5	10.5
13	11	11	11
14	11.5	11.5	11.5
15 or more	12	12	12

(b) A staff member whose appointment is terminated for reasons of health shall receive an indemnity equal to the indemnity provided under paragraph (a) of the present annex reduced by the amount of any disability benefit that the staff member may receive under the Regulations of the United Nations Joint Staff Pension Fund for the number of months to which the indemnity rate corresponds.

(c) A staff member whose appointment is terminated for unsatisfactory services or who for disciplinary reasons is dismissed other than by summary dismissal may be paid, at the discretion of the Secretary-General, an indemnity not exceeding one half of the indemnity provided under paragraph (a) of the present annex.

(d) No indemnity payments shall be made to:

(i) A staff member who resigns, except where termination notice has been given and the termination date agreed upon;

- (ii) A staff member who has a probationary or indefinite appointment that is terminated during the first year of service;
 - (iii) A staff member who has a temporary appointment for a fixed term that is completed on the expiration date specified in the letter of appointment;
 - (iv) A staff member who is summarily dismissed;
 - (v) A staff member who abandons his or her post;
 - (vi) A staff member who is retired under the Regulations of the United Nations Joint Staff Pension Fund.
- (e) Staff members specifically engaged for conference and other short-term service or for service with a mission, or as experts, and staff members who are locally recruited for service in established offices away from Headquarters may be paid termination indemnity if and as provided in their letters of appointment.
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**Promotion and protection of human rights: human
rights situations and reports of special rapporteurs
and representatives**

Situation of human rights in the Palestinian territories occupied since 1967

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard, submitted in accordance with Human Rights Council resolution 5/1.

* A/62/150.



Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

Summary

The right of the Palestinian people to self-determination, which has been recognized by the political organs of the United Nations, the International Court of Justice and Israel, is to be exercised in the West Bank, East Jerusalem and Gaza, which together form the Palestinian self-determination unit. The exercise of this right is threatened by the separation of the West Bank and Gaza resulting from the seizure of power by Hamas in Gaza in June 2007 and seizure of power by Fatah in the West Bank. Every effort must be made by the international community to ensure that Palestinian unity is restored. Without unity the right to self-determination cannot be fully realized.

This year witnessed the fortieth anniversary of the occupation of the Palestinian territory. Israel's obligations as occupying Power have not diminished as a result of the prolonged nature of the occupation. On the contrary, these obligations have increased as a result of Israel's illegal actions within the occupied territory. It is suggested that the International Court of Justice be asked to render an advisory opinion on the legal consequences of prolonged occupation for the occupied people, the occupying Power and third States.

Israel remains an occupying Power in respect of Gaza. Arguments that Israel ceased its occupation of Gaza in 2005 following the evacuation of its settlements and the withdrawal of its troops take no account of the fact that Israel retains effective control over Gaza by means of its control over Gaza's external borders, airspace, territorial waters, population registry, tax revenues and governmental functions. The effectiveness of this control is emphasized by regular military incursions and rocket attacks. Israel's conduct in respect of Gaza must therefore be measured against the standards of international humanitarian law and human rights law. In the past year Israel has violated important norms of international humanitarian law and human rights law by undertaking military action against civilian targets and by creating a humanitarian crisis by means of the closure of Gaza's external borders. In law Israel is obliged to cease these actions. Other States that are a party to the siege of Gaza are likewise in violation of international humanitarian law.

The human rights situation in the West Bank may improve as a result of the rapprochement between the emergency Government of President Abbas, under the prime ministership of Salam Fayyad, and Israel, the United States and the Quartet, following the takeover of Gaza by Hamas. Already 255 prisoners have been released, US\$ 119 million of Palestinian tax funds transferred to the Palestinian Authority and amnesty granted to 178 Fatah militants. Despite these moves, and promises of further measures to improve the lives of Palestinians from Israel, the United States and the Quartet, large-scale violations of human rights and international humanitarian law continue in the West Bank and East Jerusalem. The construction of the wall (or barrier) continues; settlements continue to expand; checkpoints remain in force; the Judaization of Jerusalem continues; and the de facto annexation of the Jordan Valley is unaffected. Military incursions, accompanied by arrests, continue unabated. House demolitions remain a feature of life in the West Bank and East Jerusalem.

The Secretary-General of the United Nations has established a Board to register Palestinian claims for damages arising from the construction of the wall. Serious questions are asked about how the Board will operate.

Violations of human rights and international humanitarian law, together with Israel's refusal to transfer tax moneys due to the Palestinian Authority and the imposition of banking restrictions by the United States, have had a serious impact on the humanitarian situation in the West Bank. Poverty and unemployment have reached their highest level; health and education are undermined by military incursions, the wall and checkpoints; and the entire social fabric of society is threatened.

There are some 10,000 Palestinian political prisoners in Israeli jails and prisoners are treated in an inhuman and degrading manner. The extrajudicial killing of suspected militants by means of rocket fire continues unabated.

While United Nations agencies and personnel advance development and protect human rights on the ground in the Occupied Palestinian Territory, serious questions are today asked about the role of the Secretary-General in the Quartet. The Quartet, comprising the United Nations, the European Union, the Russian Federation and the United States, is today largely responsible for furthering the peace process in the Occupied Palestinian Territory. This body, which is in practice led by the United States, has shown little regard for promoting human rights or international humanitarian law and is indirectly responsible for imposing economic sanctions on the Occupied Palestinian Territory. In May 2007 the former United Nations Special Coordinator for the Middle East Peace Process and Envoy to the Quartet, Alvaro de Soto, declared that the Quartet, under the influence of the United States, had failed the Palestinian people and called upon the Secretary-General to seriously reconsider membership of the United Nations in the Quartet.

The Special Rapporteur appeals to the Secretary-General to press the Quartet to be guided by human rights law, international humanitarian law, the advisory opinion of the International Court of Justice and considerations of fairness and even-handedness in its dealings with the Occupied Palestinian Territory. If this cannot be done the United Nations should withdraw from the Quartet.

Finally, the Special Rapporteur calls upon the General Assembly to request the International Court of Justice to give a further advisory opinion on the consequences of prolonged occupation for the occupied people, the occupying Power and third States.

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I. Introduction

1. The mandate of the Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory (OPT) is to investigate, study and report on the extent to which human rights are observed in the Occupied Palestinian Territory. His mandate does not require him to report on the politics of OPT. Indeed he has been admonished by some States, following previous reports, for exceeding his mandate by trespassing on the political terrain. He is therefore fully aware of this limitation in respect of his mandate. On the other hand, there is a twilight zone between human rights and politics, one within which the two interact, and one which must fall within the concern of the present mandate. Unhappily, this area has grown in size and continues to grow. Today most of the subjects designated as "political" have a human rights dimension. The political rift between the West Bank and Gaza, the economic strangulation of Gaza, the ongoing seizure of Palestinian land by the construction of the wall and the expansion of settlements, incursions by the Israel Defense Forces (IDF) into Gaza and the West Bank, the creeping annexation of the Jordan Valley, the treatment of refugees, the roadblocks and checkpoints of the West Bank and the Judaization of Jerusalem are all political issues which at the same time raise important points of human rights law and international humanitarian law. The political actions of international organizations, such as the United Nations and the European Union, also have implications for human rights. Issues of this kind cannot be ignored if an honest account is to be given of the present human rights situation in the Occupied Palestinian Territory.

2. The present report will focus on four subjects: the right of self-determination of the Palestinian people; the Israeli occupation of the West Bank, Gaza and East Jerusalem; the violation of human rights and international humanitarian law by the occupying Power; and the action of international organizations in the furtherance and denial of human rights. The Special Rapporteur has visited the Occupied Palestinian Territory twice a year since assuming his mandate in 2001. He last visited the region in December 2006, but has unfortunately been unable to visit the Occupied Palestinian Territory since then. He plans, however, to visit the Occupied Palestinian Territory before presenting this report.

II. Self-determination

3. That the Palestinian people have the right of self-determination cannot be disputed. Such a right has been recognized by the Security Council, the General Assembly, the International Court of Justice and Israel itself. In the advisory opinion of 9 July 2004 of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* the International Court of Justice declared that "[A]s regards the principle of the right of peoples to self-determination, the Court observes that the existence of a 'Palestinian people' is no longer in issue."¹ On 1 December 2006 the General Assembly adopted resolution 61/25 in which it stressed the need for "the realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State". (See also resolution 61/152 of 19 December 2006.)

¹ *Advisory Opinion, I.C.J. Reports 2004*, p. 136, para. 118.

4. The territory of the self-determination unit within which this right is to be exercised clearly includes the West Bank, East Jerusalem and Gaza. This is implicit in much of the language of United Nations resolutions that proclaim the right of the Palestinian people to self-determination. It is placed beyond all doubt by the fact that the right to self-determination of the Palestinian people is asserted in the context of a "two State solution" that is, one "where two States, Israel and Palestine, live side by side within secure and recognized borders".² In asserting such a solution the Security Council and the General Assembly contemplate one Palestinian State for the Palestinian people. This is emphasized by the calls for "the establishment of a permanent physical link between the Gaza Strip and the West Bank".³

5. The right of the Palestinian people to self-determination has been denied and obstructed for nearly 60 years by Israel. Now it is threatened by the political separation of the West Bank and Gaza resulting from the seizure of power in Gaza by Hamas in June 2007 followed by the seizure of power in the West Bank by Fatah. The carefully brokered Government of Palestinian national unity has been destroyed by the internecine conflict in May and June in which some 200 Palestinians, mostly belonging to Fatah, were killed. At the time of writing (August), there is no immediate prospect of reconciliation between Hamas and Fatah. This is a matter of deep concern to the Special Rapporteur as the right to self-determination is a central and core human right. It must also be a matter of concern to the Quartet, the United Nations, the European Union and other international institutions committed to the realization of the right of the Palestinian people to self-determination. Such a concern should not take the form of support — political, economic or military — for one faction at the expense of the other but rather for reconciliation between the two factions so that the right to self-determination may be realized within the 1967 borders of the Palestinian self-determination unit, that is including the West Bank, East Jerusalem and Gaza. Suggestions that the West Bank be politically tied to Jordan or Gaza linked to Egypt would seriously undermine the right of the Palestinian people to self-determination as it has evolved over the past decades. Unhappily, the Quartet (which embraces the United Nations) is, at the time of writing, making little attempt to promote Palestinian national unity. On the contrary, it pursues a divisive policy of preferring one faction over the other; of speaking to one faction but not the other; of dealing with one faction while isolating the other.

III. Israel's occupation of the Occupied Palestinian Territory, with special reference to Gaza

6. The Palestinian Territory has been occupied for so long — 40 years — that there is a tendency in certain quarters to overlook this reality and to treat the Occupied Palestinian Territory as an "unoccupied" entity. This leads to the perception of Israel and Palestine as two States poised against each other, with Israel as the victim and Palestine as a neighbouring aggressive, terrorist State. This, of course, is very far from the truth. The Palestinian Territory, including the West Bank, East Jerusalem and Gaza, remains occupied territory, occupied by Israel.

² Security Council resolutions 1397 (2002) and 1515 (2003); General Assembly resolution 61/25.

³ General Assembly resolution 61/25.

Insofar as there is a "victim" party, it is Palestine as inevitably an occupied party has such a status vis-à-vis the occupier.

7. That Israel is the occupier of the Palestinian Territory, subject to the obligations imposed by international law as an occupying Power, was reaffirmed by the International Court of Justice in the *Wall* opinion when it held that the Palestinian territories (including East Jerusalem) "remain occupied territories and Israel has continued to have the status of an occupying Power".⁴ The consequence of this, said the International Court, was that the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) applies to the Occupied Palestinian Territory, as do the International Covenants on Human Rights of 1966.⁵

8. Israel's obligations have not diminished as a result of the prolonged nature of the occupation.⁶ On the contrary, they have increased as a result of the nature of Israel's occupation which has given rise to the argument that Israel's occupation has over the years become tainted with illegality.⁷ In these circumstances, the Special Rapporteur proposed in his report to the Human Rights Council in March 2007 (A/HRC/41/17) that the International Court of Justice be asked to give a further advisory opinion, on the legal consequences of prolonged occupation. The Court might be asked to consider the legal consequences of a prolonged occupation that has acquired some of the characteristics of apartheid and colonialism and has violated many of the basic obligations imposed on an occupying Power. Has it ceased to be a lawful regime, particularly in respect of "measures aimed at the 'occupant's own interests'"?⁸ And, if this is the position, what are the legal consequences for the occupied people, the occupying Power and third States? Such an opinion might not only produce legal clarity on the consequences of Israel's occupation of the Palestinian Territory but also put further pressure on the international community to compel Israel to comply with its obligations as occupying Power. It is true that the 2004 advisory opinion on the wall has to date had little effect. However, it must be remembered that the United Nations requested four advisory opinions from the International Court of Justice to guide it in its approach to South Africa's occupation of South West Africa/Namibia.

9. The *Wall* advisory opinion was concerned with the construction of a wall in the West Bank and East Jerusalem. As the Court was not asked to pronounce on the legal status of Gaza it, possibly, confined its reaffirmation of the occupied status of the Occupied Palestinian Territory to the West Bank and East Jerusalem.⁹ This fact, together with the evacuation of Israeli settlements and the withdrawal of the permanent IDF presence from Gaza in 2005, has given rise to the argument that Gaza is no longer occupied territory. On 15 September 2005 Prime Minister Sharon told the General Assembly that Israel's withdrawal from Gaza meant the end of its

⁴ *Advisory Opinion*, op. cit., para. 78.

⁵ *Ibid.*, paras. 101, 111 and 112.

⁶ See A. Roberts, "Prolonged military occupation: the Israeli occupied territories since 1967" *American Journal of International Law*, vol. 84 (1990), pp. 55-57 and 95.

⁷ O. Ben-Naftali, A. M. Gross and K. Michaeli, "Illegal occupation: framing the Occupied Palestinian Territory", *Berkeley Journal of International Law*, vol. 23, No. 3 (2005), pp. 551-614.

⁸ E. Benvenisti, *The International Law of Occupation* (Princeton, Princeton University Press, 1993), p. 216.

⁹ *Advisory Opinion*, op. cit., para. 101.

responsibility for Gaza. Subsequently, in submissions before the Israeli High Court, the Government of Israel has taken the position that it no longer occupies Gaza and that it is no longer bound by international humanitarian law in its actions vis-à-vis Gaza residents. Recently, on 8 July, Israel's Ministerial Committee for Legislative Affairs approved a draft bill recognizing Gaza as "a foreign entity". Essentially, Israel's position is that responsibility for the civilian population of Gaza, including the functioning of Gaza's economy, is the sole responsibility of the Palestinian Authority.

10. The argument that Israel's occupation of Gaza has come to an end is not supported by law or fact. This is emphasized by a study entitled *Disengaged Occupiers: The Legal Status of Gaza*, written by Sari Bashi and Kenneth Mann of Gisha, The Legal Center for Freedom of Movement, an Israeli non-governmental organization (NGO), published in January 2007. This study shows, convincingly, that the test under international law for deciding whether a territory is occupied is not the permanent ground presence of the occupying Power's military in the occupied territory, but effective control.¹⁰ Technological developments have made it possible for Israel to assert control over significant aspects of civilian life in Gaza without a permanent troop presence. This is done by:

(a) **Substantial control of Gaza's six land crossings.** The Erez crossing is effectively closed to Palestinians wishing to cross to Israel or the West Bank. The Rafah crossing between Egypt and Gaza, which is regulated by the Agreement on Movement and Access entered into between Israel and the Palestinian Authority on 15 November 2005 (brokered by the United States), has been closed by Israel for lengthy periods since June 2006. The main crossing for goods at Karni is strictly controlled by Israel and since June 2006 this crossing too has been largely closed, with disastrous consequences for the Palestinian economy;

(b) **Control through military incursions, rocket attacks and sonic booms.** Sections of Gaza have been declared "no-go" zones in which residents will be shot if they enter;

(c) **Complete control of Gaza's airspace and territorial waters;**

(d) **Control of the Palestinian Population Registry.** The definition of who is "Palestinian" and who is a resident of Gaza and the West Bank is controlled by the Israeli military. Even when the Rafah crossing is open, only holders of Palestinian identity cards can enter Gaza through the crossing; therefore control over the Palestinian Population Registry is also control over who may enter and leave Gaza. Since 2000, with few exceptions, Israel has not permitted additions to the Palestinian Population Registry;

(e) **Control of the ability of the Palestinian Authority to exercise governmental functions.** Israel exercises control over the ability of the Palestinian Authority to provide services to Gaza and West Bank residents and the functioning of its governmental institutions, including control over the transfer of tax revenues which amount to 50 per cent of the Palestinian Authority's operating income. Moreover, Gaza and the West Bank constitute two parts of a single territorial unit, with a unified and undifferentiated system of civilian institutions spread throughout

¹⁰ See *United States of America v. Wilhelm List et al.* (The Hostages Case) United Nations War Crimes Commission, *Law Reports of Trials of War Criminals*, vol. III, 1949, p. 56; *Democratic Republic of the Congo v. Uganda*, I.C.J. Reports 2005, paras. 173 and 174.

Gaza and the West Bank, funded from the same central budget and run by the same central authority. Therefore, Israel's continued direct control over the West Bank is a form of indirect control over Gaza.

11. The fact that Gaza remains occupied territory means that Israel's actions towards Gaza must be measured against the standards of international humanitarian law and human rights law.

12. Since June 2006 Israel has engaged in both large-scale military operations and brief military incursions in Gaza.

13. In the course of Operations "Summer Rains" and "Autumn Clouds" between June and November 2006, IDF carried out 364 military incursions into different parts of Gaza, accompanied by persistent artillery shelling and air-to-surface missile attacks. Missiles, shells and bulldozers destroyed, or caused serious damage to, homes, schools, hospitals, mosques, public buildings, bridges, water pipelines and sewage networks. On 27 June the Israeli Air Force destroyed all six transformers of the only domestic power plant in the Gaza Strip, which supplied 43 per cent of Gaza's daily electricity, and this resulted in depriving half of the population of Gaza of electricity for several months. Citrus groves and agricultural lands were levelled by bulldozers. And in the first phase of "Operation Summer Rains" F-16s flew low over Gaza, breaking the sound barrier and causing widespread terror among the population. Thousands of Palestinians were displaced from their homes as a result of Israel's military action.

14. Beit Hanoun in northern Gaza, with a population of 40,000, was subjected to particularly vicious military action in November in the course of "Operation Autumn Clouds". During a six-day incursion 82 Palestinians, at least half of whom were civilians (including 21 children), were killed by IDF. More than 260, including 60 children, were injured and hundreds of males between the ages of 16 and 40 were arrested. Forty thousand residents were confined to their homes as a result of a curfew as Israeli tanks and bulldozers rampaged through the town, destroying 279 homes, an 850-year-old mosque, public buildings, electricity networks, schools and hospitals, levelling orchards and digging up roads, water mains and sewage networks. Israel's assault on Beit Hanoun culminated in the shelling of a home which resulted in the killing of 19 persons and the wounding of 55 persons on 8 November 2006. The house, situated in a densely populated neighbourhood, was the home of the Al-Athamnah family, which lost 16 members on that fateful day. Of the 19 killed, all civilians, seven were women and eight children. Unfortunately, Israel has refused to accept any international investigation into this matter. It refused to allow a Human Rights Council-mandated mission which was to have been led by Archbishop Desmond Tutu to enter Israel and the Occupied Palestinian Territory. The failure of Israel to allow an international investigation of the killing of 19 persons in Beit Hanoun, or to undertake an impartial investigation of its own, is regrettable as it seems clear that the indiscriminate firing of shells into a civilian neighbourhood with no apparent military objective constituted a war crime.

15. There have been sporadic military incursions into Gaza for the past months. In the period 20 to 27 June 2007 there were seven IDF incursions into Gaza resulting in at least 17 Palestinian deaths (including six civilians, among them two children) and 39 injuries. In the period 27 June to 3 July, 19 Palestinians were killed: eight by an IDF tank shell (including a 10-year-old boy), seven by Israeli air strikes, three during armed clashes with IDF soldiers and one of wounds sustained earlier. In

addition 43 Palestinians were injured during IDF operations. On 5 July 11 Palestinians were killed and 25 wounded as a result of an Israeli attack involving aircraft, tanks and bulldozers.

16. Israel has largely justified its attacks and incursions as defensive operations aimed at preventing the launching of Qassam rockets into Israel, the arrest or killing of suspected militants or the destruction of tunnels. Clearly the firing of rockets into Israel by Palestinian militants without any military target, which has resulted in the killing and injury of Israelis, cannot be condoned and constitutes a war crime.¹¹ Nevertheless, serious questions arise over the proportionality of Israel's military response and its failure to distinguish between military and civilian targets. It is highly arguable that Israel has violated the most fundamental rules of international humanitarian law, which constitute war crimes in terms of article 147 of the Fourth Geneva Convention and article 85 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflict (Protocol I). These crimes include direct attacks against civilians and civilian objects and attacks which fail to distinguish between military targets and civilians and civilian objects (articles 48, 51 (4) and 52 (1) of Protocol I); the excessive use of force arising from disproportionate attacks on civilians and civilian objects (articles 51 (4) and 51 (5) of Protocol I); the spreading of terror among the civilian population (article 33 of the Fourth Geneva Convention and article 51 (2) of Protocol I); and the destruction of property not justified by military necessity (article 53 of the Fourth Geneva Convention).

17. Gaza has become a besieged and imprisoned territory as a result of the economic sanctions imposed by Israel and the West, following the election success of Hamas in the January 2006 elections, the capture of Corporal Gilad Shalit in June 2006 and the seizure of power by Hamas in June 2007. External borders have been mainly closed and only opened to allow a minimum of imports and exports and foreign travel. This has produced a humanitarian crisis, one carefully managed by Israel, which punishes the people of Gaza without ringing alarm bells in the West. It is a controlled strangulation that seriously violates norms of human rights law and humanitarian law but which apparently falls within the generous limits of international toleration.

18. There are six crossings into Gaza, all of which are controlled by Israel. Rafah, the crossing point for Gazans to Egypt, and Karni, the commercial crossing for the import and export of goods, are the principal crossing points. They are the subject of the Agreement on Movement and Access, which provides for Gazans to travel freely to Egypt through Rafah and for a substantial increase in the number of export trucks through Karni. Since 25 June 2006, following the arrest of Corporal Shalit, and more particularly since mid-June 2007, following the Hamas seizure of power in Gaza, the Rafah crossing has been closed for lengthy periods of time as a result of Israel's refusal to allow members of the European Border Assistance Mission, responsible for operating Rafah, to carry out their task. From mid-June to early August some 6,000 Palestinians were stranded on the Egyptian side of the border, without adequate accommodation or facilities and denied the right to return home. Over 30 people died while waiting. No regard is had to the hardships suffered by ordinary Palestinians by Israel in its decision to close the Rafah crossing. The Karni

¹¹ See Human Rights Watch, *Indiscriminate Fire. Palestinian Rocket Attacks on Israel and Israeli Shelling in the Gaza Strip* (July 2007).

crossing has likewise been closed for long periods of time during the past 18 months, and more particularly since mid-June 2007.

19. The siege of Gaza has had a major impact on the economy of Gaza. Employment has suffered dramatically. On 9 July 2007 the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) announced that it had halted all its building projects in Gaza because it had run out of building materials, such as cement. This has affected 121,000 jobs of people building new schools, houses, waterworks, and health centres. Eighty per cent of the 3,900 factories operating in Gaza have likewise been compelled to close because of the failure to obtain building materials through the Karni crossing. This has affected the livelihoods of 30,000 people. The border closures have also prevented agricultural products from being exported, depriving farmers of their income. Fishing has virtually come to an end as a result of the ban on fishing along the Gaza coast, rigorously enforced by Israeli gunboats. The public service, while employed in theory, is largely unpaid as a result of Israel's withholding of funds due to the Palestinian Authority. According to the World Bank 3,200 businesses closed in June leaving 65,000 people unemployed.

20. The cancellation of the Gaza customs code by Israeli authorities has also meant that more than 1,300 containers of commercial materials destined for Gaza remain stranded at Israeli ports, and essential items such as milk powder, baby formula and vegetable oil are now in short supply. Military incursions have forced the closure of schools. Eighty-one items on the essential drugs list were out of stock, according to the Palestinian Ministry of Health, because of the financial crisis. Mental health is a serious problem as a result of the trauma inflicted by military incursions.

21. Poverty is rife. Over 90 per cent of the population live below the official poverty line. UNRWA and the World Food Programme provide food assistance to 1.1 million Gazans of a population of 1.4 million. Recipients of food aid receive flour, rice, sugar, sunflower oil, powdered milk and lentils. Few can afford meat, fish (virtually unobtainable anyway as a result of the ban on fishing), vegetables and fruit. Morale is low. The very fabric of Gazan society is threatened by the siege.

22. In a report of 11 July 2007 the World Bank declared that the prolonged closure of Gaza's border crossings could lead to the "irreversible" economic collapse of Gaza. On 19 July Karen AbuZayd, Commissioner-General of UNRWA, warned that without the Karni crossing the Gaza economy will "collapse".

23. Israel's siege of Gaza violates a whole range of obligations under both human rights law and humanitarian law. The International Covenant on Economic, Social and Cultural Rights provisions that everyone has the right to "an adequate standard of living for himself and his family, including adequate food, clothing and housing", freedom from hunger and the right to food (art. 11) and that everyone has the right to health have been seriously infringed. Above all, the Government of Israel has violated the prohibition on collective punishment of an occupied people contained in article 33 of the Fourth Geneva Convention. The indiscriminate and excessive use of force against civilians and civilian objects, the destruction of electricity and water supplies, the bombardment of public buildings, the restrictions on freedom of movement, the closure of crossings and the consequences that these actions have had upon public health, food, family life and the psychological well-being of the Palestinian people constitute a gross form of collective punishment. The capture of

Corporal Shalit and the continuing firing of Qassam rockets into Israel cannot be condoned. On the other hand, they cannot justify the drastic punishment of a whole people in the way that Israel has done.

24. Gaza is no ordinary State upon which other States may freely impose economic sanctions in order to create a humanitarian crisis or take disproportionate military action that endangers the civilian population in the name of self-defence. It is an occupied territory in whose well-being all States have an interest and whose welfare all States are required to promote. According to the advisory opinion of the International Court of Justice on the wall, all States parties to the Fourth Geneva Convention have the obligation "to ensure compliance by Israel with international humanitarian law as embodied in that Convention".¹² Israel has violated obligations of an *erga omnes* character that are the concern of all States and that all States are required to bring to an end. In the first instance, Israel, the occupying Power, is obliged to cease its violations of international humanitarian law. But other States that are a party to the siege of Gaza are likewise in violation of international humanitarian law and obliged to cease their unlawful actions. It is no excuse that Gaza is governed by a "terrorist group". Terrorism is a relative concept, particularly in the context of occupation, as opposition to the occupying Power will always be seen as terrorism by the occupying Power and its accomplices. French resistance fighters were viewed as terrorists by the German occupation, and members of the South West Africa Peoples' Organization that opposed South Africa's occupation of Namibia were seen as terrorists by the South African regime. Today such resistance fighters are seen as heroes and patriots. This is the inevitable consequence of resistance to occupation.

IV. Human rights in the West Bank and East Jerusalem

25. The human rights situation in the West Bank has possibly improved since mid-June. The takeover of Gaza by Hamas has resulted in a new rapprochement between the emergency Government of President Abbas, under the prime ministership of Salam Fayyad, and Israel, the United States and the Quartet. This has taken several forms:

- the release of 255 Palestinian prisoners, mainly belonging to Fatah;
- the release of \$119 million of Palestinian tax funds seized by Israel after the election success of Hamas in January 2006;
- the granting of amnesty to 178 Fatah militants wanted by Israel;
- promises, as yet unfulfilled, to cease military incursions into the West Bank, reduce checkpoints and remove settler outposts;
- the offer of \$190 million in aid by the United States;
- the blessing of the Quartet which in a statement on 19 July expressed support for the Palestinian Government headed by Mr. Fayyad and encouraging direct and rapid financial assistance to his Government "to help reform, preserve and strengthen vital Palestinian institutions and infrastructure, and to support the rule of law".

¹² *Advisory Opinion*, op. cit., para. 159.

26. The new support for Mr. Fayyad's Government in the West Bank has not, however, succeeded in removing or even softening Israel's ideological infrastructure that most seriously violates human rights in the West Bank. The construction of the wall (or Barrier) continues; settlements continue to expand; checkpoints remain in force; the Judaization of Jerusalem continues; and the de facto annexation of the Jordan Valley is unaffected. Moreover, at the time of writing military incursions into the West Bank continue unabated, albeit directed principally at Hamas, as do home demolitions.

A. The wall

1. General

27. The wall that Israel is at present building largely in Palestinian territory is clearly illegal. The International Court of Justice in its advisory opinion of 9 July 2004 found that it is contrary to international law and that Israel is under obligation to discontinue construction of the wall and to dismantle those sections that have already been built forthwith. Israel has abandoned its claim that the wall is a security measure only and now concedes that one of the purposes of the wall is to include settlements within Israel. The fact that 76 per cent of the West Bank settler population is enclosed within the wall bears this out.

28. The wall is planned to extend for 721 km. At present 59 per cent of the wall has been completed. Two hundred kilometres of the wall have been constructed since the International Court of Justice handed down its advisory opinion declaring the wall to be illegal. When the wall is finished, an estimated 60,000 West Bank Palestinians living in 42 villages and towns will reside in the closed zone between the wall and the Green Line. This area will constitute 10.2 per cent of Palestinian land in the West Bank. More than 500,000 Palestinians living within 1 km of the wall live on the eastern side but need to cross it to get to their farms and jobs and to maintain family connections. Eighty per cent of the wall is built within the Palestinian territory itself and in order to incorporate the Ariel settlement bloc, it extends some 22 km into the West Bank. The closed zone includes many of the West Bank's most valuable water resources. Completion of the wall around the Ma'aleh Adumim bloc will separate East Jerusalem from the rest of the West Bank, restricting access to workplaces, health, education, and to places of worship. Further south, the route of the wall around the Gush Etzion settlement bloc will sever the last route between Bethlehem and Jerusalem and isolate the majority of Bethlehem's agricultural hinterland.

29. The wall has serious humanitarian consequences for Palestinians living within the closed zone (the area between the Green Line and the wall). They are cut off from places of employment, schools, universities and specialized medical care and community life is seriously fragmented. Moreover, they do not have 24-hour access to emergency health services. Palestinians who live on the eastern side of the wall but whose land lies in the closed zone face serious economic hardship as a result of the fact that they are not able to reach their land to harvest crops or to graze their animals without permits. Permits are not easily granted. A host of obstacles are placed in the way of obtaining a permit. Bureaucratic procedures for obtaining permits are humiliating and obstructive. The Office for the Coordination of Humanitarian Affairs has estimated that 60 per cent of the farming families with

land to the west of the wall could no longer access their land. To aggravate matters the opening and closing of the gates leading to the closed zone are regulated in a highly arbitrary manner: in November 2006 the Office carried out a survey in 57 communities located close to the wall which showed that only 26 of the 61 gates in the wall were open to Palestinians for use all the year round and that these gates were only open for 64 per cent of the officially stated time. Hardships experienced by Palestinians living within the closed zone and in the precincts of the wall have already resulted in the displacement of some 15,000 persons.

2. East Jerusalem

30. The 75-km wall being built in East Jerusalem is now almost complete, except for a 200-m section between Dahiyat and Beit Hanina. This wall, which is built through Palestinian neighbourhoods and separates Palestinians from Palestinians, is an exercise in social engineering, designed to achieve the Judaization of Jerusalem by reducing the number of Palestinians in the city. It cannot conceivably be justified on security grounds.

3. Compensation for damage caused by the construction of the wall

31. In its 2004 advisory opinion the International Court of Justice held that Israel has the obligation to make reparations for the damage caused to Palestinians by the construction of the wall. Where restitution of property is not possible, stated the Court, Israel "has an obligation to compensate, in accordance with the applicable rules of international law, all natural and legal persons having suffered any form of material damage as a result of the wall's construction".¹³ In 2004 the General Assembly directed the establishment of a United Nations Register of Damages Caused by the Construction of the Wall in the Occupied Palestinian Territory and the establishment of a board to administer this register. As this decision was not implemented for more than two years, on 15 December 2006 the General Assembly at its tenth emergency special session, in resolution ES-10/17, requested the Secretary-General to report within six months on the progress made in this respect. In compliance with this request the Secretary-General appointed, on 10 May 2007, Harumi Hori of Japan, Matti Paavo Pellonpää of Finland and Michael F. Raboin of the United States to membership of the Board. The Board met from 14 to 16 May 2007 and plans to meet again in August/September.

32. Compensation for violation of the human rights of Palestinians and the violation of rules of international humanitarian law arising from the construction of the wall is a human rights issue which clearly falls within the present Special Rapporteur's mandate. The Special Rapporteur shares the concerns expressed by stakeholders and civil society about the Board and its functions. First, there is the opaque manner in which the Board was appointed. Many United Nations officers who hold similar positions are elected to office; others are appointed after wide consultation. The failure of the Secretary-General to employ a more transparent method of appointment, coupled with the fact that all the members of the Board, however well qualified they undoubtedly are, are nationals of States from the North with close relations with Israel, inevitably means that members of the Board will have to overcome the misgivings of stakeholders and civil society. Secondly, there are serious doubts about how the Board will perceive its role. What criteria will it

¹³ *Advisory Opinion*, op. cit., paras 152-153.

adopt for eligibility and verification of claims? Will it consider non-material damages such as the effects on mental health and family life? Or will it confine itself to material damage? Will it insist on gaining access to the Occupied Palestinian Territory to fully assess the damages involved? Or will it defer to Israel when it is refused access? Will it ensure that Palestinians are informed about their right to claim? Will there be consultation with civil society?

B. Settlements and settlers

33. There are some 140 Israeli settlements and 100 settlement "outposts" (unauthorized but State-sponsored and funded by Government ministries) established in the West Bank, including East Jerusalem. These settlements are illegal as they violate article 49, paragraph 6, of the Fourth Geneva Convention. Their illegality has been unanimously confirmed by the International Court of Justice in the advisory opinion on the wall. Despite the illegality of settlements and the unanimous condemnation of settlements by the international community, the Government of Israel persists in allowing settlements to grow. Sometimes settlement expansion occurs openly and with the full approval of the Government. In 2007 the Jerusalem Municipality Planning Committee approved plans to build three new settlements in East Jerusalem, one south of Ramallah and two north-west of Bethlehem. More frequently, expansion takes place stealthily under the guise of "natural growth", which has resulted in Israeli settlements growing at an average rate of 5.5 per cent compared with the average growth rate in Israeli cities of 1.7 per cent. Sometimes settlements expand unlawfully in terms of Israeli law, but no attempt is made to enforce the law. Outposts, a prelude to the establishment of settlements, are frequently established and threats to remove them are not carried out. Most outposts have been established in the past six years. As a result of expansion, the settler population in the West Bank numbers some 260,000 persons and that of East Jerusalem over 200,000. As indicated above, the wall is presently being built in both the West Bank and East Jerusalem to ensure that most settlements will be enclosed within the wall. Moreover, the three major settlement blocs of Gush Etzion, Ma'aleh Adumim and Ariel will effectively divide Palestinian territory into cantons, thereby destroying the territorial integrity of Palestine.

34. In October 2006, the Israeli NGO Peace Now published a study which showed, on the basis of official maps and figures, that nearly 40 per cent of the land held by Israeli settlements in the West Bank is privately owned by Palestinians. The data show, for example, that 86 per cent of the largest settlement of Ma'aleh Adumim is on Palestinian private property; that 35 per cent of Ariel is on private property; and that more than 3,400 buildings in settlements are constructed on land privately owned by Palestinians. On 6 July 2007 Peace Now published another study, based on official data released by the Government of Israel following a court order, which revealed that settlements use only 12 per cent of the land allocated to them, but one third of the territory they do use lies outside their official jurisdictions. Ninety per cent of the settlements extend beyond their official boundaries despite the amount of unused land already allocated to them. These findings attest to the Government's ongoing cooperation with the settlements' expansion. On the one hand, the State earmarks huge tracts for the settlements, out of all proportion to their size, in order to prevent Palestinian construction in those areas. Yet once an area is closed to

Palestinians, the settlers begin seizing adjacent Palestinian lands, often privately owned, that lie outside their jurisdiction.

C. The Jordan Valley

35. Israel has abandoned earlier plans to build the wall along the spine of the Occupied Palestinian Territory and to formally appropriate the Jordan Valley. It has nevertheless asserted its control over this region, which constitutes 25 per cent of the West Bank, in much the same way as it has done over the closed zone between the wall and the Green Line on Palestine's western border. That Israel intends to remain permanently in the Jordan Valley is clear from Government statements and is further manifested, first, by restrictions imposed on Palestinians and, second, by the exercise of Israeli control and the increase in the number of settlements in the Jordan Valley.

36. Palestinians living in the Jordan Valley must possess identity cards with a Jordan Valley address and only those persons may travel within the Jordan Valley without Israeli permits. Other Palestinians, including non-resident landowners and workers, must obtain permits to enter the Jordan Valley and in practice such permits are not valid for overnight stays, necessitating daily commuting and delays at checkpoints connecting the Jordan Valley with the rest of the West Bank. This has led to the isolation of the Jordan Valley.

D. Checkpoints and roadblocks as obstacles to freedom of movement

37. Checkpoints and roadblocks seriously obstruct the freedom of movement of Palestinians in the West Bank, with disastrous consequences for both personal life and the economy. There are some 550 such obstacles to freedom of movement, comprising over 80 manned checkpoints and some 470 unmanned locked gates, earth mounds, concrete blocks and ditches. In addition, thousands of temporary checkpoints, known as "flying checkpoints", are set up every year by Israeli army patrols on roads throughout the West Bank for limited periods, ranging from half an hour to several hours. In 2006 a total of some 7,000 such flying checkpoints was recorded.¹⁴ In June 2007 there were 488 flying checkpoints and in July 2007 there were 409 such checkpoints. Checkpoints divide the West Bank into four distinct areas: the north (Nablus, Jenin and Tulkarem), the centre (Ramallah), and the south (Hebron) and East Jerusalem. Within these areas further enclaves have been created by a system of checkpoints and roadblocks. Moreover highways for the use of Israelis only further fragment the Occupied Palestinian Territory into 10 small cantons or Bantustans. Cities are cut off from each other as a permit is required to travel from one area to another and permits are difficult to obtain. Checkpoints largely serve the interests of settlers in the sense that they are generally established near to settlements or near to settler bypass roads.

38. Checkpoints and the poor quality of secondary roads Palestinians are obliged to use, in order to leave the main roads free for settler use, result in journeys that previously took 10 to 20 minutes taking two to three hours. Israel justifies these

¹⁴ Amnesty International, *Enduring Occupation. Palestinians under Siege in the West Bank* (June 2007), p. 16.

measures, together with the behaviour of its soldiers at checkpoints, on security grounds and claims that they have succeeded in thwarting the passage of numerous would-be suicide bombers. There is, however, another security perspective. Palestinians perceive these measures to be designed, first, to serve the convenience of settlers and to facilitate their travel through the West Bank without having to make contact with Palestinians, and, secondly, to humiliate Palestinians by treating them as inferior human beings. The result is a suppressed anger that in the long term poses a greater threat to the security of Israel.

E. Military incursions

39. Since the election of the Hamas Government in January 2006, IDF has intensified its military incursions in the West Bank. These military raids, numbering several hundred each month (641 in July 2007), have resulted in the killing of some 200 Palestinians and injury to over a thousand, searches resulting in substantial damage to property, and several hundred arrests each month. The Government of Israel has announced, following the takeover of Gaza by Hamas, that as a gesture of goodwill to the Government of Mr. Fayyad, it would discontinue its military incursions into the West Bank. To date there is no evidence of such a discontinuation. IDF military incursions resulting in death, injury, arrests and damage to property remain a regular feature of life in the West Bank.

F. Humanitarian situation

40. The construction of the wall, the expansion of settlements, the restrictions on freedom of movement, house demolitions and military incursions have had a disastrous impact on the economy, health, education, family life and standard of living of Palestinians in the West Bank. Since 2006 the situation has deteriorated further as a result of two factors: first, Israel's withholding of taxes which it collects on behalf of the Palestinian Authority on all goods imported into the Occupied Palestinian Territory, amounting to \$50-60 million per month (about half of the budget of the Palestinian Authority); second, the sanctions regime imposed by the United States, the European Union and other Western States (implicitly approved by the Quartet) which has taken the form of the discontinuation of aid and banking restrictions on the transfer of money to the Palestinian Authority and other Palestinian institutions. According to Karen AbuZayd, the Commissioner-General of UNRWA:

There is a staggering irony in the contrast between the universal commitment to poverty eradication (expressed in the UN Millennium Development Declaration) and the decision to impose on Palestinians one of the most severe sanctions regimes in recent history, thereby virtually guaranteeing the widespread incidence of extreme poverty.¹⁵

41. In the past month Israel has transferred \$119 million of the tax money it has unlawfully seized to the Palestinian Authority and Western States and the Quartet have promised to recommence funding to the Palestinian Authority (insofar as it does not further the interests of Hamas in Gaza). At the time of writing no material

¹⁵ Speech delivered at the Woodrow Wilson Institute, Washington, D.C., on 22 May 2007.

change is discernible in the humanitarian situation in the West Bank as a result of the continuing occupation, the human rights violations described in this section of the report and Israel's refusal to transfer all the tax moneys in law due to the Palestinian Authority. Poverty and unemployment are at their highest levels yet; health and education are undermined by military incursions, the wall and checkpoints; and the social fabric of society is threatened.

Conclusion

42. The situation in the West Bank may not be as serious as that of Gaza. However, it is all a question of degree. Moreover, as in Gaza, the serious humanitarian situation in the West Bank is largely the result of Israel's violations of international law. The wall violates norms of international humanitarian law and human rights law, according to the International Court of Justice; settlements violate the Fourth Geneva Convention; checkpoints violate the freedom of movement proclaimed in human rights conventions; house demolitions violate the Fourth Geneva Convention; the humanitarian crisis in the West Bank, brought about by Israel's withholding of Palestinian tax money and other violations of international law, violates many of the rights contained in the International Covenant on Economic, Social and Cultural Rights. As in Gaza, Israel's actions constitute an unlawful collective punishment of the Palestinian people.

V. Violation of the prohibition on arbitrary detention, inhuman treatment and extrajudicial executions

Prisoners

43. There are over 10,000 Palestinian political prisoners in Israeli jails, including 116 women and 380 children. In July 2007, 255 prisoners, belonging mainly to Fatah, were released. As IDF continues to arrest substantial numbers of Palestinians in military incursions in the West Bank and Gaza every day, this prisoner release can only be seen as a very small step in the right direction. (In July 2007, 391 Palestinians were arrested: 354 in the West Bank and 37 in Gaza.)

Inhuman treatment

44. Serious complaints about the treatment of pre-trial detainees and imprisoned persons continue to be heard. In April 2007 two Israeli NGOs — Hamoked (Centre for the Defence of the Individual) and B'Tselem (The Israeli Information Centre for Human Rights in the Occupied Territories) — published a report on torture and ill-treatment of Palestinian detainees which showed that arrested persons were subjected to beatings, humiliated and deprived of basic needs and that persons suspected of having information that could prevent attacks (so-called "ticking bomb suspects") were deprived of sleep for more than 24 hours, beaten and subjected to physical ill-treatment.¹⁶ This treatment certainly amounts to inhuman and degrading treatment and possibly to torture.

¹⁶ *Utterly Forbidden, The Torture and Ill-Treatment of Palestinian Detainees* (April 2007).

Extrajudicial executions or targeted assassinations

45. The IDF continue to assassinate suspected militants by targeting them with rockets. Since 2000 some 500 Palestinians, including many innocent bystanders, have been killed in this way. This practice makes a mockery of Israel's claim to have abolished the death penalty.

VI. The role of the United Nations in the protection of human rights in the Occupied Palestinian Territory

46. The United Nations is the ultimate protector of human rights in the international community, with its agencies, personnel and political institutions committed to this end. In Occupied Palestinian Territory agencies such as UNRWA, OCHA, the United Nations Development Programme, the Office of the High Commissioner for Human Rights, the World Food Programme, the World Bank, the United Nations Children's Fund, the World Health Organization, the International Labour Organization and the Food and Agriculture Organization of the United Nations are committed to promoting development and protecting human rights. Dedicated personnel pursue the ideals of the Charter of the United Nations in providing help for a people under occupation. Indeed, it is difficult to imagine how Palestinians could survive without the assistance of bodies such as UNRWA. Unfortunately, the story at the high political level in New York is very different.

47. The Security Council has largely relinquished its powers in respect of the Occupied Palestinian Territory in favour of an amorphous body known as the Quartet, comprising the United Nations, the European Union, the Russian Federation and the United States. The Quartet was informally set up in 2003 without a founding resolution or mandate from either the Security Council or the General Assembly, with the task of promoting peace in accordance with a road map for peace, to which Israel has attached 14 reservations and which is now hopelessly out of date. In his May 2007 end of mission report, Alvaro de Soto, former United Nations Special Coordinator for the Middle East Peace Process and United Nations Envoy to the Quartet, stated that "as a practical matter, the Quartet is pretty much a group of friends of the US — and the US doesn't feel the need to consult closely with the Quartet except when it suits it." (para. 63). Despite its dubious constitutionality and the questionable legality of its actions, the Quartet remains unchallenged by the Security Council or the General Assembly.

48. The Quartet does not see it as its function to promote respect for human rights, international humanitarian law, the advisory opinion of the International Court of Justice, international law or countless United Nations resolutions on the subject of the Occupied Palestinian Territory. Regular statements by the Quartet make mildly critical reference to the expansion of settlements and the humanitarian situation in the Occupied Palestinian Territory but condemnation of Israel's continuing occupation, and its violations of international humanitarian law (primarily the Fourth Geneva Convention) and human rights is not forthcoming. Moreover, the Quartet has yet to even mention the Advisory Opinion of the International Court of Justice. Since January 2006 the Occupied Palestinian Territory has been subjected to economic sanctions in the form of the termination of donor aid, the imposition of banking restrictions and the seizure of tax moneys. The United States, the European Union and Israel must take direct responsibility for these actions but the Quartet

must accept indirect responsibility.¹⁷ Most recently, the Quartet has embarked on a course hostile to Palestinian self-determination by giving support to one Palestinian faction, Fatah, at the expense of the other, Hamas, and by making no attempt to restore the unity of the Palestinian people.¹⁸ In the process Gaza seems to have been simply abandoned by the Quartet.

49. The actions of the United States and the European Union within the Quartet can be explained in terms of their own domestic political constituencies and constraints. The Russian Federation seems to be uneasy about its membership of the Quartet and attempts to pursue, without success, an even-handed approach to the situation in the Occupied Palestinian Territory. What then is the position of the United Nations, the guardian of legitimacy enshrined in the Charter, and representative not only of the opinions of the five permanent members of the Security Council but of all 192 members of the Organization? Sadly, the United Nations, acting through the Secretary-General, has ignored the views of the majority of its members and abandoned its role as guardian of international legitimacy. Instead of promoting Palestinian self-determination, striving to end the occupation and opposing the ongoing violation of human rights, the United Nations has chosen to give legitimacy to the statements and actions of the Quartet. The situation is well described by Alvaro de Soto in his end of mission report:

[The Secretary-General] is being used to provide the appearance of an imprimatur on behalf of the international community for the Quartet's positions. This in itself is awkward since the Secretary-General participates in the Quartet not by delegation or mandate from any UN body, leave alone the Security Council, but in his semi-stand-alone capacity. There are large segments of the international community not represented in the self-appointed Quartet, including the Arab shareholders. Nevertheless, I could live with the arrangements until the point came when the Quartet started taking positions which are not likely to gather a majority in UN bodies, and which in any case are at odds with the UN Security Council resolutions and/or international law or, when they aren't expressly so, fall short of the minimum of even-handedness that must be the lifeblood of the diplomatic action of the Secretary-General. (para. 69)

50. For the past few years the Special Rapporteur has appealed in his reports to the Quartet to show more even-handedness and respect for human rights and the rule of law in both their actions and their utterances. These appeals have been ignored. Now, the former Under-Secretary-General, Special Coordinator for the Middle East

¹⁷ In his end of mission report of May 2007 Alvaro de Soto states:

"Strictly speaking it is not the Quartet as such which has reviewed assistance, circumvented the PA and shifted aid to the preponderantly humanitarian, imposed stifling banking restrictions or deprived the Palestinians of their main source of income. It is, respectively, the US and the EU and Israel who must take responsibility for these actions. Due to the amendments to which our Quartet partners agreed in January 2006, we are able to say that none of these measures emanate directly from Quartet decisions, and to dissociate ourselves from those measures or openly criticize them (Israeli non-transfer of Palestinian money to the PA). And we do so. But in the wide-angle lens of Palestinian and Arab public opinion this is verbal prestidigitation, and it doesn't wash. By our association with all that has been inflicted on the Palestinians since the beginning of 2006 we are guilty as charged in the court of Palestinian and Arab public opinion." (para. 78).

¹⁸ This is clear from the Quartet's statement of 19 July 2007.

Peace Process and Envoy to the Quartet has spoken in stronger language, accusing the Quartet of being led (and coerced) by the United States into adopting positions at odds with the ideals of the Charter, and calling upon the Secretary-General to seriously reconsider continued United Nations membership in the Quartet. In effect, this message has been ignored and the messenger shot.¹⁹

VII. Recommendations

51. The recommendations or appeals set out below are made to Israel, Palestinian armed groups, States members of the United Nations and the United Nations itself.

To Israel

52. Israel's occupation of the West Bank, East Jerusalem and Gaza is now in its fortieth year. This occupation, which has resulted in numerous violations of international humanitarian law and human rights law, has seriously undermined the integrity and reputation of the State of Israel. Israel is urged to enter into serious negotiations with the Palestinian Authority to bring about the creation of a Palestinian State within the 1967 borders of the Palestinian entity, to end the occupation of the Palestinian Territory and to respect international humanitarian law and human rights law in its dealings with the Palestinian people.

To Palestinian militant groups

53. Palestinian militant groups are urged to end their attacks on civilian targets and comply with international humanitarian law, both within the Occupied Palestinian Territory and Israel.

To States Members of the United Nations

54. States Members of the United Nations are urged to bring pressure on the Quartet to act in an even-handed manner with due respect for human rights and international humanitarian law. They are also urged, as parties to the Fourth Geneva Convention, to ensure that Israel complies with international humanitarian law as embodied in that Convention. (This obligation is affirmed by the International Court of Justice in its advisory opinion on the wall.²⁰)

To the United Nations (particularly the Secretary-General)

55. The Secretary-General is urged, as representative of the United Nations in the Quartet, to ensure that the Quartet:

(a) Condemns Israel's violations of international humanitarian law and human rights law (described in the present report) and take measures to ensure that Israel complies with its obligations in this respect;

¹⁹ See the statement by Secretary-General Ban Ki-moon at a press conference on 13 June 2007.

²⁰ *Advisory Opinion*, op. cit., para. 159.

(b) Accepts the 2004 advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* as a juridical basis for its dealings with Israel;

(c) Presses Israel to immediately transfer to the Palestinian Authority all the value added tax and customs duties that it has collected on behalf of the Palestinians in order to ameliorate the humanitarian crisis that prevails in the Occupied Palestinian Territory;

(d) Adopts a fair and even-handed approach to the respective positions of Israel and the Palestinians;

(e) Adopts a fair and even-handed approach to different factions within the Palestinian community, as the United Nations has done in other comparable conflict situations,²¹ so that Palestinian self-determination is achieved.

56. If the Secretary-General is unsuccessful in persuading the Quartet to act as proposed above, the United Nations should cease to give its imprimatur to the actions of the Quartet and should withdraw from the Quartet.

To the United Nations (particularly the General Assembly)

57. The General Assembly is urged to request the International Court of Justice to give a further advisory opinion on the legal consequences for the occupied people, the occupying Power and third States of prolonged occupation (see also paragraph 8 above.)

²¹ On this subject it is necessary to quote a passage from the speech by Karen AbuZayd, UNRWA Commissioner-General, to the Woodrow Wilson Institute in Washington, D.C., on 22 May 2007:

"A further discrepancy can be identified in the area of the international community's approach to the Israeli-Palestinian conflict. The presently moribund state of the peace process is the direct result of a policy to isolate a particular party, regardless of the fact that it happens to command a significant constituency. The policy of isolation is arguably at odds with the UN Charter's vision of a system of collective security that is founded on the peaceful settlement of disputes, mutual restraint in the use of armed force and joint action to address threats to international peace and security. Our policy to exclude one side is also at variance with the approach that the international community has successfully pursued in resolving other armed conflicts. In some notable and rather well-known recent examples in western Europe and South Asia, neither the terrorist epithet, nor the fact of continuing and even escalating armed conflict deterred mediators from engaging the protagonists and continuing to press for a solution ... Many successful peace negotiations proceeded on the basis of the mediators' neutrality, inclusiveness and abstention from passing moral or political judgment on either party's eligibility to be present at the table."



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Sustainable development: protection of global climate for present and future generations of mankind; implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa; Convention on Biological Diversity

Implementation of United Nations environmental conventions

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the reports submitted by the secretariats of the United Nations Framework Convention on Climate Change (annex I), the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (annex II), and the Convention on Biological Diversity (annex III).

* A/62/150.



Annex I

Report of the Executive Secretary of the United Nations Framework Convention on Climate Change on the United Nations Climate Change Conference, Nairobi, 2006, and its follow-up

I. Introduction

1. The General Assembly, in its resolution 61/201 of 20 December 2006, invited the secretariat of the United Nations Framework Convention on Climate Change to report to it at its sixty-second session on the work of the Conference of the Parties. The present report is submitted in response to that invitation.

II. Outcomes of the twelfth session of the Conference of the Parties to the Convention and of the second session of the Conference of the Parties to the Convention serving as the Meeting of the Parties to the Kyoto Protocol

A. Summary

2. The United Nations Climate Change Conference was held in Nairobi from 6 to 17 November 2006. It included the twelfth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change and the second session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol.

3. Overall, the United Nations Climate Change Conference achieved good results in a broad range of areas of international cooperation on climate change, particularly with respect to issues of importance to developing countries.

4. A major outcome of the conference was the progress made in advancing the adaptation agenda. Agreement on the Nairobi work programme on impacts, vulnerability and adaptation to climate change (see FCCC/SBSTA/2006/11, sect. III) under the United Nations Framework Convention on Climate Change,^a and on the principles, modalities and key governance elements of the Adaptation Fund under the Kyoto Protocol, provide a critical foundation to enhance the technical basis of adaptation and advance the implementation of activities on the ground.

5. The Secretary-General of the United Nations launched the Nairobi Framework, a collaborative effort by several agencies to build capacity in those developing countries that are not yet able to access the clean development mechanism.

6. The United Nations Climate Change Conference has succeeded in maintaining the momentum of the two processes launched in Montreal last year that will shape future climate change policy. The Ad Hoc Working Group on Further Commitments by Annex I Parties under the Kyoto Protocol, agreed on a detailed workplan spelling out the steps needed to complete its mandate. Under the broader Convention

^a United Nations, *Treaty Series*, vol. 1771, No. 30822.

dialogue on long-term cooperative action to address climate change, a second workshop was held, which focused on approaches to advancing development goals in a sustainable way and realizing the full potential of market-based opportunities.

7. As at 30 July 2007, the United Nations Framework Convention on Climate Change had 191 parties, and the Kyoto Protocol had 175 Parties (as at 30 July 2007).

B. Outcomes of the second session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol

8. The second session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol adopted 11 decisions, strengthening implementation of the Kyoto Protocol and building the basis for future climate change policy.

9. An important outcome was reached in the area of adaptation. The agreement reached on the principles, modalities and key governance elements of the Adaptation Fund under the Kyoto Protocol will lay the ground for operationalization of the Adaptation Fund in 2007. The Adaptation Fund is an innovative instrument for supporting activities in developing countries as it draws on shares of proceeds of certified emission reductions generated by clean development mechanism project activities and does not rely only on concessional funds. It will support concrete adaptation activities in developing countries.

10. In Nairobi, a number of decisions were made with respect to Kyoto Protocol market-based mechanisms. In particular, joint implementation was given a major boost by decisions needed to launch its project-based track. As provided under the clean development mechanism, project proposals for emission-reducing activities can now be submitted to a supervisory committee and, if approved, will generate carbon credits.

11. Progress was made on some key methodological issues related to the mechanism, which will help pave the way for eventual consideration of new approaches to expand its scope in the future. Those issues include the treatment of new and emerging technologies, such as the capture of carbon dioxide and its storage in underground geological formations, and the so-called "programmatic clean development mechanism", whereby the mechanism is no longer limited to individual projects but can cover entire national programmes that help reduce emissions.

12. According to the workplan of the Ad Hoc Working Group on Further Commitments by Annex I Parties under the Kyoto Protocol, the group agreed to base its efforts on a shared vision of the challenge set by the ultimate objective of the Convention and took note of findings that global carbon dioxide emissions had to be reduced to well below half of their levels in the year 2000 to achieve a stabilization of atmospheric concentrations. It also referred to the need to pursue its work in a timely manner in order to send a signal to economic actors on the continuity of the international carbon market.

13. Agreement on the review of the Kyoto Protocol under its article 9 adds to the future momentum of the international climate change regime. A first, light review done in Nairobi concluded that the Kyoto Protocol had initiated important action to address climate change and had fostered cooperative action between developed and

developing countries, but that some elements, in particular adaptation, could be further elaborated. The second review of the Protocol will take place in 2008, with preparations starting this year.

C. Outcomes of the twelfth session of the Conference of the Parties to the Convention

14. The nine formal decisions adopted by the twelfth session of the Conference of the Parties to the Convention, some of which are outlined below, will further advance measures to mitigate climate change and to adapt to its impacts.
15. The Nairobi work programme on impacts, vulnerability and adaptation to climate change was agreed upon. The work programme provides a unique tool to enhance the technical and methodological basis for adaptation and to foster cooperation among parties as well as joint activities with other United Nations entities and intergovernmental and non-governmental organizations. It brings together many actors from the United Nations system (including the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the United Nations Development Programme, the United Nations Environment Programme, the United Nations Institute for Training and Research, the Inter-Agency Secretariat of the International Strategy for Disaster Reduction, the United Nations University, the World Food Programme, the World Meteorological Organization, the World Trade Organization and the regional commissions) to promote adaptation activities, to incorporate adaptation into all relevant policy areas and to foster assistance to developing countries in line with their needs.
16. Substantial advances have also been made on other efforts under the Convention aimed at providing to developing countries the financial resources required to address climate change. The full operationalization of the Special Climate Change Fund, which is designed to finance projects in developing countries relating to adaptation, technology transfer, climate change mitigation and support for economic diversification, is another critical outcome of the twelfth session of the Conference of the Parties.
17. Other decisions adopted aim at improving the delivery of financial support, in particular, the way in which the Global Environment Facility (GEF) operates the Convention's financial mechanism.
18. In order to ensure that adequate financial and investment flows will become available to support the required response to climate change, the Conference of the Parties requested the secretariat to prepare a review of all investment and financial flows relevant to addressing climate change, with a particular focus on developing countries' needs. That work is led by the United Nations Framework Convention on Climate Change and has been undertaken in collaboration with a number of international financial institutions, the Global Environment Facility, representatives of the private sector and civil society and a number of United Nations entities, including the Food and Agriculture Organization of the United Nations (FAO), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the United Nations Forum on Forests, the Department of

Economic and Social Affairs and the United Nations Industrial Development Organization (UNIDO).

19. Under the Convention dialogue on long-term cooperative action to address climate change, a second workshop was held. It included presentations on the economics of climate change by Nicolas Stern and on the investment framework for cleaner energy and development by the World Bank. Discussions showed a clear shift in the debate, from looking at climate change policies as a cost factor for development to seeing them as opportunities to enhance economic growth in a sustainable way.

20. The implementation of the Convention continues, with 134 developing countries having submitted their initial national communications (as at 30 July 2007). Of those countries, more than 100 are presently engaged in the preparation of their second national communication that will contain information relating to greenhouse gas inventories, vulnerability and adaptation assessments, and mitigation measures. Of the least developed countries, 20 have prepared national adaptation programmes of action that identify priority activities that respond to their urgent and immediate needs with regard to adaptation to climate change (as at 31 July 2007).

21. Industrialized countries (annex I parties) were requested to submit their fourth national communication to the secretariat by 1 January 2006. A total of 39 out of 41 annex I parties have submitted their fourth national communication (as at 30 July 2007).

D. High-level segment

22. The joint high-level segment of the Conference of the Parties at its twelfth session and the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol at its second session was opened by the Secretary-General of the United Nations and by Mwai Kibaki, President of Kenya and Moritz Leuenberger, President of Switzerland. The speakers reinforced the message of the seriousness of the issues at stake, in particular emphasizing the link between climate change and the ability to meet the Millennium Development Goals and calling for an urgent global response to climate change.

23. The Secretary-General of the United Nations commended the progress achieved in implementation of the market-based mechanism of the Kyoto Protocol, but noted that the clean development mechanism is not reaching all developing countries equally, in particular sub-Saharan Africa. To address the problem, he announced the launch of the Nairobi Framework, a collaborative effort by several entities (UNDP, UNEP, the secretariat of the Convention, the World Bank and the African Development Bank) to build capacity in those developing countries that are not yet able to access the clean development mechanism.

E. Conclusions and recommendations

24. The General Assembly may wish to, *inter alia*:

(a) Take note of the report of the Executive Secretary of the United Nations Framework Convention on Climate Change, as transmitted by the Secretary-General;

(b) Note the outcomes of the twelfth session of the Conference of the Parties to the Convention and of the second session of the Conference of the Parties to the Convention serving as the Meeting of the Parties to the Kyoto Protocol, hosted by the Government of Kenya from 6 November to 17 November 2006;

(c) Invite the Executive Secretary to continue to report to it on the work of the Conference.

Annex II

Report of the Secretary-General on the implementation of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa and on the outcome of the celebration of the International Year of Deserts and Desertification

I. Introduction

1. In its resolution 61/202 of 20 December 2006, the General Assembly requested the Secretary-General to report to it at its sixty-second session on the implementation of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa.^a The present report constitutes an update to the Assembly on principal activities that have been undertaken under the Convention since the adoption of that resolution, including the outcomes of the fifth session for the review of the implementation of the Convention.

2. The report also reviews activities carried out in the context of resolution 58/211 on the celebration by the international community of the International Year of Deserts and Desertification.

II. Implementation of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa

A. Review of the implementation of the Convention and of its institutional arrangements, pursuant to article 22, paragraph 2 (a) and (b), and article 26 of the Convention, and the outcome of the fifth session of the Committee on the Review of the Implementation of the Convention

3. The Committee on the Review of the Implementation of the Convention, as a standing subsidiary body to assist in its function of regularly reviewing the implementation of the Convention, was established by the fifth session of the Conference of the Parties.

4. The fifth session of the Committee met in Buenos Aires, Argentina, from 12 to 21 March 2007. The meeting reviewed the reports on implementation by affected country parties of regions other than Africa, including on the participatory process, and on experience gained and results achieved in the preparation and implementation of programmes of action. It also reviewed the reports by developed country parties on measures taken to assist in the preparation and implementation of

^a Ibid., vol. 1954, No. 33480.

action programmes of affected country Parties of regions other than Africa, including information on financial resources they have provided, or are providing, under the Convention.

5. The Committee further reviewed information provided by relevant organs, funds and programmes of the United Nations system, as well as by other intergovernmental and non-governmental organizations, in respect of their activities in support of the implementation of the Convention in affected country parties of regions other than Africa. It particularly considered available information regarding the mobilization and use of financial resources and other support by multilateral agencies and institutions, with a view to enhancing their effectiveness and efficiency in respect of the achievement of the objectives of the Convention, including information on the activities of the Global Environment Facility and the Global Mechanism and its Facilitation Committee.
6. The Committee on the Review of the Implementation of the Convention discussed necessary adjustments to the elaboration process and the implementation of programmes of action, including (a) a review of the enhanced implementation of the obligations of the Convention, (b) ways and means of promoting know-how and technology transfer for combating desertification and/or mitigating the effects of drought; and (c) ways and means of promoting experience-sharing and information exchange among parties and interested institutions and organizations. It considered ways and means of improving procedures for the communication of information as well as the quality and format of reports to be submitted to the Conference of the Parties. Finally, the Committee considered the interim report on the status of celebration of the International Year of Deserts and Desertification.
7. In accordance with decision 7/COP.7, and in order to maximize the exchange of best practices, experiences and lessons learned between parties and observers, seven panel discussions were organized to cover regional and global issues as described in the thematic topics of decision 1/COP.5 and the strategic areas of decision 8/COP.4.
8. Following the provisions of decisions 1/COP.5 and 9/COP.6, the Committee reviewed available information regarding the mobilization and use of financial resources and other support by multilateral agencies and institutions. The Committee considered necessary adjustments to the elaboration process and the implementation of national action programmes, including a review of the enhanced implementation of the obligations of the Convention; ways and means of promoting know-how and technology transfer, experience-sharing and information exchange among parties and interested institutions and organizations; ways and means of improving procedures for communication of information; and the quality and format of reports to be submitted to the Conference of the Parties.
9. A global interactive dialogue was convened on investments in rural areas in the context of combating land degradation and desertification. The ensuing discussion focused on reducing poverty and called for a common direction in approaches to improving rural livelihoods and enhancing economic growth in rural areas. Country ownership, alignment, harmonization and mutual accountability with their partners should help affected country parties to exercise leadership in strengthening rural development and protecting dryland ecosystems.

10. At its fifth session, the Committee identified potential action that could be undertaken at the national, subregional, regional and international levels, after consideration and appropriate decisions by the Conference of the Parties, in conformity with the provisions of the Convention. The Committee discussed specific thematic issues pertaining to the implementation process in regions other than Africa. Recommendations were made in the following areas: participatory processes involving civil society, and non-governmental and community-based organizations; legislative and institutional frameworks or arrangements; resource mobilization and coordination, both domestic and international, including conclusions of partnership agreements; links and synergy with other environmental conventions and, as appropriate, with national development strategies; drought and desertification monitoring and assessment; early warning systems for mitigating the effects of drought; and access by affected country parties, particularly affected developing country parties, to appropriate technology, knowledge and know-how.

11. The Committee reviewed the implementation of the Convention at the global level and made recommendations in the following areas: the review process and procedures for the communication of information as well as the quality and format of reports; the efficiency and effectiveness of measures in reaching the end-users of natural resources; a synthesis of best practices, experiences and lessons learned and of ways and means to promote experience-sharing and information exchange among parties and all other interested institutions and organizations; emerging and challenging issues deriving from implementation and necessary adjustments to the elaboration process and the implementation of action programmes; and ways and means of promoting know-how and technology transfer. The Committee made specific recommendations on financing implementation of the Convention by multilateral agencies and institutions, including by the Global Environment Facility.

12. Noting that in addressing land and water issues under the Convention, a framework is essential for achieving the Millennium Development Goals and maintaining essential ecosystem services, the Committee urged that the potential offered by the Convention for a synergistic added value be recognized in the resource allocation patterns under the Global Environment Facility. The Facility was invited to strengthen the focal area of land degradation, primarily desertification and deforestation, while donors and the Global Environment Facility Council were encouraged to allocate more financial resources to land degradation in the next replenishment.

13. The Committee also noted that adaptation to climate change was high on the international agenda and recommended that the potential of the Convention to be instrumental for adaptation to climate change be recognized through adjustments to appropriate mechanisms. In that regard, Global Environment Facility was invited to facilitate access by affected country parties, particularly those in Africa, to funding mechanisms available for the implementation of projects and to programmes relating to land degradation and desertification, such as the Least Developed Countries Fund and the Special Climate Change Fund, in order to support their efforts to combat desertification, and to do likewise with the Adaptation Fund of the Kyoto Protocol should the opportunity arise.

B. Preparation for the sixteenth and seventeenth sessions of the Commission on Sustainable Development

14. The General Assembly, in its resolution 61/202, underlining the importance of the issue of desertification in the process of the Commission on Sustainable Development, in particular in the context of its sixteenth and seventeenth sessions dealing with thematic clusters on agriculture, rural development, land, drought and desertification, requested the secretariat of the Commission to work closely with the secretariat of the Convention in the preparations for those sessions in the areas relevant to the Convention.

15. Consistent with resolution 61/202, the secretariats of the Convention and the Commission met to discuss modalities for collaboration in undertaking preparations for the next cycle of the Commission. The meeting took place in New York during the fifteenth session of the Commission. At that meeting, the secretariats underlined the multisectoral and cross-cutting nature of the thematic clusters. They noted the need for information-sharing in order to produce streamlined documents based on various information sources. They reached an understanding on the need to join forces to respond to various demands from Member States and other stakeholders. In that regard, they agreed to find opportunities for joint intersessional panels and side events with appropriate themes such as desertification and poverty reduction, natural resource scarcity in the drylands as a strategic issue, sustainable land management and adaptation to climate change.

16. Special reference was made to regional implementation meetings of the Commission and to meetings of regional economic commissions. Since the implementation framework of the Convention follows a regional pattern, it was understood that the secretariat of the Convention would actively contribute to the proceedings of those meetings.

C. Deliberations of the ad hoc intergovernmental intersessional working group to develop a draft 10-year strategic plan and framework to enhance the implementation of the Convention

17. In resolution 61/202, the Assembly welcomed the establishment of the ad hoc intergovernmental intersessional working group with the mandate to review the report of the Joint Inspection Unit in full and, building on the results of that review and other inputs, to develop a draft 10-year strategic plan and framework to enhance the implementation of the Convention, for submission to the Conference of the Parties at its eighth session.

18. By its decision 3/COP.7, the Conference of the Parties established an intersessional intergovernmental working group, which, inter alia, was requested to develop a 10-year strategic plan and framework to enhance the implementation of the Convention. In line with that decision, the Bureau of the Conference of the Parties was assigned to prepare the terms of reference of the Intersessional Intergovernmental Working Group, including a draft 10-year strategic plan and framework to enhance the implementation of the Convention. The Working Group was requested to complete its work by 1 June 2007, with a view to submitting its conclusion to the eighth session of the Conference of the Parties to the Convention. The Working Group consisted of 18 members, comprising the President of the

Conference of the Parties, the chairs of the Committee on Science and Technology and the Committee for the Review of the Implementation of the Convention and three members of each of the five regional groups. The Working Group met four times.

19. At its first meeting, in May 2006, the Working Group considered its programme of work. In the light of the scope of its tasks and the limited time available for concluding its work, the Working Group decided to seek external assistance, subject to the availability of resources. At its second meeting, in July 2006, the Working Group further specified that it would need the assistance of a core consultancy team, consisting of at least two consultants. In addition, the Working Group considered that short-term assignments would be given to selected consultants for preparing issue papers on specific technical matters that were relevant to the development of the strategic plan and framework.

20. The Group pursued its deliberations at its third and fourth meetings, held respectively from 26 to 28 April 2007 in Windhoek and from 29 to 31 May 2007 in Geneva, Switzerland. A draft of the ten-year strategic plan and framework to enhance implementation of the Convention (2008-2018) was finalized after the Geneva meeting and is therefore ready for consideration by the eighth session of the Conference of the Parties, which will be held in Madrid from 3 to 14 September 2007.

D. Consideration of the implementation of decision 23 of the seventh session of the Conference of the Parties to the Convention, pertaining to the introduction of the euro as the budget and accounting currency of the Convention

21. In its decision 23/COP.7, the Conference of the Parties to the Convention decided to introduce the euro as the budget and accounting currency from 2008-2009, and requested the Executive Secretary to report to the eighth session of the Conference of the Parties on all necessary changes in the programme and budget document. In its resolution 61/202, the General Assembly requested the Secretary-General, taking into account the institutional linkage and related administrative arrangements between the Convention secretariat and the United Nations Secretariat, to facilitate the implementation of decision 23 of the seventh session of the Conference of the Parties pertaining to the introduction of the euro as the budget and accounting currency of the Convention.

22. In the oral statement made by the Secretariat before the Second Committee at its 34th meeting, in connection with draft resolution A/C.2/61/L.55, it was indicated that the introduction of the euro as the budget and accounting currency of the Convention would be a departure from the Financial Regulations and Rules of the United Nations and, consequently, it would require detailed review by the United Nations Secretariat as to the feasibility of maintaining records in two currencies within the existing financial system of the United Nations (see A/C.2/61/SR.34).

23. Administrative services to the United Nations Convention to Combat Desertification are provided by the United Nations Office in Geneva in accordance with the established financial policies and procedures and the Financial Regulations and Rules. In order for the Office to provide administrative services to the

Convention, in the even that the euro is introduced as the budget and accounting currency of the Convention, it will be prohibitively expensive for the United Nations to modify its financial systems and procedures in order to accommodate the Convention's currency change.

24. In its resolution 60/283 (part II, para. 4), the Assembly decided to replace the Integrated Management Information System (IMIS) with the next generation of enterprise resource planning system or other comparable system. Hence, it would not be cost effective or productive to invest additional resources, both human and financial, in upgrading IMIS to meet any requirements. In that context, should parties wish to change to the euro as the budget and accounting currency, the Office advised that the parties' interest would be best served by having financial services more effectively and efficiently provided by another United Nations entity, one that is already using the euro as its own base currency, while committing to providing all assistance necessary to facilitate the transfer of financial assistance to another United Nations entity.

25. The former Executive Secretary of the Convention has expressed concern that the Conference of the Parties at its seventh session neither invited nor authorized the Convention secretariat to move its financial services from the Office to another organization, nor did it authorize the Convention secretariat to sever or change its other ties to either the Office or United Nations Headquarters. In that context, he further stated that it was the belief of the Convention secretariat that it would be most appropriate for it to seek again the guidance of the parties regarding the best manner to reduce the present exchange rate risks.

III. Observations and recommendations

26. The implementation of the United Nations Convention to Combat Desertification since the last session of the General Assembly has advanced the Convention's process and visibility.

27. At its fifth session, the Committee for the Review of the Implementation of the Convention not only reviewed various reports but also succeeded in convening seven panel discussions and a global interactive dialogue to maximize the exchange of best practices, experiences and lessons learned between parties and observers, and to cover regional and global issues as well as several strategic areas. The Assembly may wish to lend its political support to the Committee process as a unique exercise for the dialogue and partnership building that are very much needed in the implementation of the Convention.

28. With regard to the next cycle of the Commission on Sustainable Development, it is envisaged that the core issues covered by the Convention will be a top priority in the intergovernmental processes during the next biennium, including in the ongoing debate on climate change. The Assembly may wish, in conjunction with the Conference of the Parties, to continue to provide policy guidance on that important matter. The same support is expected from the Assembly to implement the ten-year strategic plan and framework to enhance the implementation of the Convention (2008-2018), should it be adopted by the Conference of the Parties.

29. Finally, the shift to the euro as the currency of the Convention has proven difficult to implement. At a time when currency fluctuations continue to impede the

implementation of the Convention budget, the Conference of the Parties should continue to seek a satisfactory solution, including within the framework of the institutional linkage and administrative arrangements concluded between the Assembly and the Conference of the Parties and in the context of the implementation of resolution 60/283. At the present time, it would be advisable to maintain the integrity of the institutional linkage that over the years has proved to be an asset for the Convention and its processes. Parties have more to gain than to lose in the present relationship. The Assembly may wish therefore to encourage the parties to the Convention to consider taking temporary measures to protect the Convention's budget against the negative effects of currency fluctuations. Furthermore, since the United Nations is about to shift to a new management system, reforming the outdated IMIS, Member States may wish to include in the said reform the possibility of accommodating other currencies, such as the euro.

IV. Outcome of the International Year of Deserts and Desertification

A. Introduction

30. Concerned at the exacerbation of desertification, particularly in Africa, and its far-reaching implications for the implementation of the Millennium Development Goals, the General Assembly, by its resolution 58/211, declared the year 2006 as the International Year of Deserts and Desertification. The Year would serve as a means to raise public awareness on the issue of desertification and to protect the biological diversity of deserts as well as the traditional knowledge of communities affected by desertification.

31. The present report assesses the outcomes of a wide range of events and activities that took place to celebrate the International Year of Deserts and Desertification. It concludes that the Year offered an important opportunity to increase awareness of desertification at the global level, while fostering the development of stakeholder networks and contributing to the long-term implementation of the United Nations Convention to Combat Desertification and the achievement of the Millennium Development Goals. However, to carry forward the momentum generated by the Year, it is imperative that appropriate follow-up action take place.

32. At its sixtieth session, the Assembly adopted resolution 60/200, requesting the Secretary-General to report to it at its sixty-second session on the celebration of the Year.

B. Objectives of the International Year of Deserts and Desertification

33. The decision of the General Assembly to observe an international year dedicated to deserts and desertification provided an opportunity to highlight the issue of drylands on the international environmental agenda, while also providing a timely reminder to the international community of the immense challenges that still lie ahead. The International Year of Deserts and Desertification was also intended to address the issue of deserts as unique natural habitats that have been home to some of the world's oldest civilizations.

34. The celebration of the Year was conceived with a view to achieving a set of concrete and measurable objectives, represented by the acronym LAND:

- (a) Long-term oriented implementation of the United Nations Convention to Combat Desertification;
- (b) Awareness of the implications of desertification;
- (c) Networking with all stakeholders;
- (d) Dissemination of information relating to the Convention.

C. Celebrations of the International Year of Deserts and Desertification

35. The General Assembly and the Conference of the Parties encouraged country parties and observers to celebrate the International Year of Deserts and Desertification worldwide, and the secretariat of the Convention, in cooperation with its bilateral and institutional partners, including the International Year of Deserts and Desertification inter-agency committee, organized a number of major international events.

36. Further global communication initiatives undertaken included broadcasts by media such as the British Broadcasting Corporation (BBC), the Voice of America and Deutsche Welle. In addition, the Science and Development Network (SciDevNet) commissioned scientific experts to prepare the *Desert Science* dossier (available from <http://www.scidev.net>).

1. Celebrations and events

37. Prior to the start of 2006, the Executive Secretary of the Convention requested information on national level activities that parties intended to organize to celebrate the Year, and 54 parties confirmed their participation. At the end of 2006, the secretariat invited the parties and observers to report on those activities. By the end of May 2007, information had been received on activities in 31 countries, which was useful in identifying priorities addressed at the national level. National events were grouped into three categories, as follows:

- (a) Conferences, workshops, seminars and symposiums, including academic lectures, science seminars, round-table discussions, forums and press conferences;
- (b) Public information and awareness-raising events, including exhibition stands, postcards, posters, booklets, literature, maps, the "This land is your land" information pack, civil society networking events, media coverage, study tours, teaching kits, training for teachers on desertification, e-learning programmes, world days and tree plantings;
- (c) Cultural events, including museum, gallery and photographic exhibitions, musical events, plays, film festivals, commemorative stamps, calendars, websites, desertification-themed lottery tickets, and photographic and writing competitions.

2. Key outputs and achievements of the International Year of Deserts and Desertification

38. Many of the International Year of Deserts and Desertification events requested the Conference of the Parties, the secretariat and other stakeholders to give due

consideration to follow-up initiatives. Outputs from the conferences organized in Bamako on youth and desertification (4-6 September 2006) and in Beijing on women and desertification (29 May-1 June 2006) specifically requested the Conference of the Parties to consider their conclusions with a view to implementing the respective recommendations. At the end of the Joint International Conference on Desertification and the International Policy Imperative, held in Algiers from 17 to 19 December 2006, an agreement was signed by the Ministry of Urban Planning, the Environment and Tourism of Algeria, the United Nations University, the United Nations Environment Programme and the secretariats of the United Nations Convention to Combat Desertification and the Convention on Biological Diversity^b on strengthening the collaboration of those institutions in combating desertification. The agreement also referred to a possible decade of deserts and desertification (2010-2020).

39. International Year of Deserts and Desertification events also yielded outputs, which, if acted upon, could enhance the multiplier effect of the Year at the national and international levels. They focused on a variety of core themes, such as women and young people, desertification-induced food insecurity and migration, and the like.

D. Recommendations to strengthen existing aspects of the Convention implementation process

1. Enhancing participation and empowerment

40. It was regarded as necessary to engage the participation of land users, Governments, regional and international bodies, non-governmental organizations, civil society, communities and the private sector, and to acknowledge that desertification-affected dryland dwellers must be at the centre of any engagement. It was further deemed necessary to formulate strategies to reduce the vulnerability of such social groups as women and youth and to involve farmers and populations of arid zones in the formulation of public policies that have a direct impact on them and on their livelihoods.

2. Enhancing the role of civil society and non-governmental organizations and networking

41. It was recommended that a viable system be set up to reinforce the active contribution of civil society to reducing the impacts of desertification, and Governments and cooperation agencies were invited to support existing youth networks involved in environmental and sustainable development. The establishment and strengthening of local women's organizations was advocated in order to enhance women's participation in decision-making, while the importance of taking a holistic approach involving all stakeholders was emphasized in order to gain full benefit from research and knowledge-sharing.

3. Scientific research, training and consensus

42. The need for multidisciplinary research on dryland policy options and consequences was identified, including land tenure issues, drought preparedness and

^b United Nations, *Treaty Series*, vol. 1760, No. 30619.

mitigation, soil and water resource management and the value of ecosystem services. There was also a call for better communication and sharing of scientific knowledge across the spectrum of stakeholders. It was further recommended that Governments and multilateral environmental agreements should integrate science into policymaking at all levels, while the scientific assessment of land degradation in arid, semi-arid and dry sub-humid areas should be linked to efforts to adapt to the adverse effects of climate variability and/or climate change.

4. Concerns and requests for long-term implementation of the Convention

43. A peer review mechanism in the implementation of the Convention was recommended, as well as improved interaction of the Convention with other development partners and national Governments, which would enable the Convention to champion better policies at the international level. The Convention secretariat was also asked to establish a focal point for youth and a Convention youth partnership network. Governments of country parties were requested to introduce more substance to sessions of the Conference of the Parties and meetings of the Committee on the Review of the Implementation of the Convention, and the Intersessional Intergovernmental Working Group was encouraged to take fully into consideration the recommendations of the Beijing International Conference on Women and Desertification and the Bamako International Conference on Youth and Desertification.

5. Indicators and targets

44. There was recognition of the need for better harmonization of information at various levels, together with the standardization of definitions, indicators and monitoring procedures. The identification of a limited number of clear, legally binding targets for implementation of the Convention was also seen as important. They would be based, inter alia, on past work of the Committee on Science and Technology and on a review of selected success stories and/or failures of campaigns against desertification and the effects of drought.

6. National action programmes

45. Concern was expressed about the serious delays in implementing national action programmes to combat desertification, and there were calls upon those countries that had not yet finished formulating their national action programmes to do so. There were also calls upon parties to incorporate a gender dimension in the implementation of their national action programmes and in other relevant frameworks or environmental strategies.

46. Governments were requested to raise their national action programmes to the strategic framework level and mainstream advanced efforts to combat desertification. In view of recurrent droughts and their impacts on local communities, it was seen as important to develop and implement a national drought policy that supported effective implementation of the national action programmes. Country parties were also requested to identify the mechanisms to enhance participation of young people in the implementation of national action programmes.

7. Resources and financing

47. It was suggested that new funding opportunities and financial instruments could be created through the development of public-private and community partnerships, while donor countries were invited to support initiatives using microcredit tools.

48. Furthermore, donor countries and international agencies, particularly the Global Environment Facility, should be called upon to provide additional funds on a regular basis as a way of improving participation (particularly of women) in the decision-making process within the implementation of the Convention. It was also suggested that the private sector should be provided with economic incentives to better invest in efforts to combat desertification.

E. Outcomes focusing on cross-cutting themes already considered within the Convention but which must continue to be mainstreamed

49. The cross-cutting themes include, in particular, the following: synergy and interlinkages, traditional knowledge, water, renewable energy, culture and education, alternative employment opportunities, access to markets and sustainable livelihoods. For further details on the priority cross-cutting areas of gender (women) and youth, please refer to the Beijing Statement of the International Conference on Women and Desertification and the Bamako Declaration of the International Conference on Youth and Desertification (see final report, chap. II) (available from <http://www.unccd.int>).

1. Synergy and interlinkages

50. There was a recognition of the need for scientific studies examining the linkages between desertification, biodiversity loss and climate change, while innovative and adaptive land management responses to inherent climatic variability and natural hazards (droughts, floods, landslides, sand and dust storms, wildfires and so on) must be identified and implemented for sustainable land management.

2. Traditional knowledge

51. A greater appreciation of the role of traditional knowledge was advocated, in addition to the recognition that combining traditional knowledge with scientific knowledge and new tools provides policymakers with crucial information. In that context, the Convention and the country parties were requested to strengthen the integration of local traditional knowledge with modern scientific approaches to combat desertification.

3. Culture and education

52. The promotion of education and the dissemination of information in areas affected by drought and desertification was recommended, as well as the inclusion of environmental and sustainable development as subjects in the curricula of schools. In that regard, specialized education facilities on combating desertification should be created, and an international system of fellowships and/or internships established on issues relating to desertification, supported by the private sector.

4. Water

53. It was recognized that managing water scarcity not only contributes towards reducing land degradation and desertification in fragile ecosystems characterized by structural water shortages, but also helps to attain the Millennium Development Goals, while knowledge of water management approaches is crucial to formulating policies for development of drylands. It was further noted that desert drylands provide opportunities for sustainable livelihoods that do not depend on the land's primary productivity but exploit such desert attributes as winter warmth, brackish geothermal water and high solar irradiation.

5. Renewable energy

54. It was advocated that non-governmental organizations disseminate information on alternative energy sources and that the potential of the drylands should be explored in order to provide such alternative energy sources as solar, wind and biofuel.

6. Alternative employment opportunities, access to markets and sustainable livelihoods

55. Alternative employment opportunities and sustainable livelihoods for pastoralists and other land users in the drylands need to be created to diminish pressure on natural resources, while income-generating activities should be encouraged based on the development of renewable energies and activities such as ecotourism. It was also suggested that Governments should be asked to set up coherent policies on international trade in order to allow equitable access of dryland products to the markets.

F. Outputs from International Year of Deserts and Desertification events identifying new and emerging cross-sectoral issues that require attention within the Convention process

56. Emerging cross-sectoral issues that require attention within the Convention process include the areas of health, food security, environmental security, migration and environmental refugees and ecosystem goods and services. Selected outcomes from the deliberations at International Year of Deserts and Desertification events are described below.

1. Health

57. It was recommended that health indicators, such as maternal diseases, child nutrition, family planning and the like be considered in the Convention reporting process. There should be a recognition of the negative effects of HIV/AIDS on communities living in areas affected by desertification and drought, particularly on women, leading to further land degradation and poverty, and of the need to explore effective strategies to diminish that negative impact through joint efforts promoting women's active involvement. Health risks could be anticipated and prevented by strengthening the capacity for resistance of both the population and the food sector, through immunization, palm production and the planting of drought-tolerant crops with higher nutritional qualities. To reduce maternal and child mortality, adequate

reproductive health facilities for women should be provided in areas affected by drought and desertification.

2. Food security

58. The concept of food sovereignty for the world's arid zones, which advocates local agricultural production to feed the local population, should be recognized. Furthermore, greater consideration should be given to the increasing convergence between human rights, the right to food and sustainable environmental management, with emphasis on the prevention and anticipation of food insecurity in the drylands. The use of multipurpose trees and crops for the production of medicines and food of high nutritive value, based on traditional knowledge, should be promoted. A specific study should also be carried out on the nutritional capacity of products from areas affected by drought and desertification and on ways and means of improving the nutritional status of the younger generation, taking into consideration existing research in the field.

3. Environmental security, migration and environmental refugees

59. Comprehensive policies should be adopted to ensure the full involvement, particularly of young people, in natural resource management to encourage them to remain on their land, while activities in affected areas should be supported in order to avoid forced migration. A more in-depth analysis of the definition of environmental migration is needed, as well as an analysis of the causes and consequences of migration and the recognition of environmental refugees under international law and of their right to food. Furthermore, a conceptual framework for desertification and migration is needed, and an international expert panel should be established to help mitigate the effects of desertification and migration.

4. Ecosystem goods and services, their valuation and the costs of inaction

60. It was recognized that those people involved in the conservation and protection of resources should benefit from payment for environmental services. Consequently the Committee on Science and Technology and the Committee on the Review of the Implementation of the Convention were called upon to urgently contribute to reaching a scientific consensus, in time for the eighth meeting of the Conference of the Parties, on the causes and symptoms of desertification and future outlooks. There was a recognition of the need to evaluate the costs and benefits of combating desertification, including ecosystem services, based on quantifiable targets and on estimates of the cost of inaction. The need for research and methods to better document the full costs of dryland degradation, particularly the losses of ecological goods and services, was also emphasized, as well as the need to quantify the substantial benefits that could accrue from the sustainable rehabilitation and development of those lands. It was acknowledged that investment in drylands is economically, socially and environmentally profitable and judicious, and should be underpinned by appropriate legislation, land tenure security, price stability, education and health care.

G. Conclusion and recommendations

61. Despite the extensive progress made towards meeting the objectives of the International Year of Deserts and Desertification, desertification remains an important global problem, especially in relation to its far-reaching implications for the implementation of the Millennium Development Goals, in particular Goal 1 on the eradication of extreme poverty and hunger and Goal 7 on ensuring environmental sustainability. If undertaken appropriately, such follow-up action could have beneficial collateral effects in contributing to goals 3, 4 and 8. It is therefore of paramount importance that appropriate follow-up action take place at all levels to build on the momentum generated through the Year, through the promotion of further political engagement, advocacy and awareness-raising in the context of the Convention.

62. The General Assembly may wish to consider the following recommendations that were identified at the relevant events organized during the celebration of the International Year of Deserts and Desertification and relate to seven main core priority areas, as follows:

(a) A commitment from stakeholders for management and restoration of degraded drylands:

(i) From partner organizations to the Convention (including the organizations of the United Nations system), financial institutions (including the Global Environment Facility), resource mobilizers (including the Global Mechanism) and parties, to increase the level and diversity of funding available to combat desertification and implement the Convention, through predictable and sufficient resources;

(ii) From the scientific community, to make research findings relevant to end-users and understandable to all stakeholders;

(iii) From civil society and non-governmental organizations, to give priority to drylands and combating desertification in their efforts to implement multilateral environmental agreements;

(b) Formulating and implementing supportive policies and appropriate legal frameworks:

(i) To improve interaction of the United Nations Convention to Combat Desertification with development, partners and the other Rio Conventions,^e and to forge new relationships with organizations addressing such emerging cross-cutting issues as food security, health, migration and human rights;

(ii) To mainstream the priorities of national action programmes in national development frameworks, in conjunction with clear targets and indicators to monitor progress;

^e The three Rio Conventions are the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa; the Convention on Biological Diversity; and the United Nations Framework Convention on Climate Change.

- (iii) To encourage countries that have not yet finished formulating their national action programmes to do so with urgency;
- (c) Empowering local people and marginalized groups, particularly women and young people, and ensuring the equitable sharing of costs and benefits:
 - (i) Strengthening the role of women, young people and populations of arid zones in decision-making, participatory processes and efforts to implement the Convention and consolidation of multi-stakeholder networks developed during the International Year of Deserts and Desertification, particularly between non-governmental organizations, women, young people, farmers and scientists, while providing the resources to ensure their sustainability;
 - (ii) Disseminating research among different stakeholder groups on the full environmental, social and economic cost of dryland degradation with a view to developing strategies for intervention;
 - (d) Integrated approaches to resource assessment, planning and management, taking into consideration the links between desertification and such emerging cross-sectoral issues as migration, environmental security, health, water, renewable energies and food insecurity:
 - (i) Rights-based approaches to such emerging cross-sectoral issues as food security, access to water and migration;
 - (ii) Exploration of, and investment in, the less well-known opportunities provided by the drylands, particularly in respect of renewable energies and alternative livelihoods;
 - (iii) Improved communication between stakeholders to reduce the duplication of effort;
 - (e) Taking an adaptive and holistic approach to dryland management, emphasizing environmental, social and cultural values as well as traditional knowledge:
 - (i) Making a commitment to integrated water, forest and land resource management, capitalizing on the information in the Millennium Ecosystem Assessment⁴ and fostering synergy with other multilateral environmental agreements;
 - (ii) Further promoting education and the dissemination of information in dryland areas affected by desertification, building on the progress made during the International Year of Deserts and Desertification and incorporating different social and cultural values and traditional knowledge;
 - (iii) Responding innovatively to natural dryland hazards, including droughts, floods, sandstorms, and the like, engaging all stakeholders, capitalizing on traditional coping strategies and scientific knowledge, and ensuring the timely review and revision of management goals;

⁴ See <http://www.millenniumassessment.org>.

(f) Promoting economic efficiency and financial viability:

(i) Agreement on a limited number of clear targets for implementation of the United Nations Convention to Combat Desertification, including quantifiable objectives and time frames to monitor progress and evaluate the "value for money" from investment in efforts to combat desertification;

(ii) Exploration of innovative approaches to enhance resources and maximize the efficiency of bilateral and multilateral development instruments. Such approaches could include debt swaps and public-private and community partnerships;

(iii) Documentation of the full costs of degradation and inaction at national, regional and international levels, together with quantification of the economic benefits and profits that could accrue from the sustainable rehabilitation and development of drylands;

(g) Assuring participatory monitoring and evaluation as a basis for adaptive management:

(i) Greater participation of those stakeholders affected by desertification (particularly indigenous groups, women, young people and the poor) in defining problems and in implementing policies and projects;

(ii) Recognition of the benefits of combining traditional and scientific knowledge to address local needs in combating desertification effectively.

Annex III

Report of the Executive Secretary of the Convention on Biological Diversity

I. Introduction

1. In its resolution 61/204 of 20 December 2006, the General Assembly invited the Executive Secretary of the Convention on Biological Diversity to continue reporting on the ongoing work of the Convention, including its Cartagena Protocol on Biosafety.^a The present report has been prepared in response to that invitation. As at 31 July 2007, a total of 190 States and the European Union were a party to the Convention, and the Cartagena Protocol had been ratified by 141 States.

II. Overview of major developments

A. Group of Eight Summit in Heiligendamm, and the Potsdam Initiative: Biological Diversity 2010

2. For the first time in its history, the Summit of the Group of Eight, discussed the challenges of biodiversity. By adopting the Declaration on Growth and Responsibility in the World Economy (para. 61) in June 2007, the leaders of the Group of Eight Summit in Heiligendamm agreed to increase their efforts for the protection and sustainable use of biodiversity to achieve the 2010 biodiversity target,^b aimed at reducing significantly the current rate of biodiversity loss. They also acknowledged the Potsdam Initiative: Biological Diversity 2010, launched in March 2007 by the ministers of the environment of the Group of Eight and of Brazil, China, India, Mexico and South Africa. The Potsdam Initiative, involving five diverse countries, revolves around 10 concrete activities to help achieve the 2010 biodiversity target adopted in Johannesburg at the World Summit on Sustainable Development and reiterated by the 2005 World Summit in its outcome document (resolution 60/1). The Potsdam Initiative recognizes that biodiversity and climate change are intertwined and that more efforts are needed to address biodiversity and climate change issues together coherently. Furthermore, the Potsdam Initiative was one of the recommendations submitted by the eminent experts meeting, which was also held in Potsdam from 13 to 15 December 2006, with the participation of the Executive Secretary of the Convention, to brainstorm on the preparations for the ninth meeting of the Conference of the Parties to the Convention on Biological Diversity, to be held in Bonn, Germany, from 19 to 30 May 2008.

^a UNEP/CBD/ExCOP/1/3 and Corr.1, part two, annex.

^b See Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002 (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

B. South-South cooperation

3. At the request of the President of the Group of 77 in New York, a brainstorming meeting on the preparation of a multi-year plan of action on South-South cooperation for the implementation of the three objectives^c of the Convention was convened in Montreal from 6 to 8 November 2006. The brainstorming meeting, organized in partnership with the Secretariat of the Group of 77, made recommendations on the elaboration of a framework for South-South cooperation for the implementation of the Convention in which the participants agreed on objectives, possible programme areas, mechanisms and management arrangements. The event offered an opportunity for the convening, for the first time, of an exchange of experiences between the secretariats of the Central Africa Forests Commission (COMIFAC), the Amazon Cooperation Treaty Organization and the Association of Southeast Asian Nations. The meeting of the secretariats of the entities concerned with the three major hydrological and forest basins of the world was convened in Montreal in response to the request of the President of the African Ministerial Conference on the Environment. That initiative was welcomed by the forty-first Meeting of the Chairpersons/Coordinators of the Group of 77 chapters, held in Rome, from 26 to 27 February 2007.

C. Cities and biodiversity

4. At the initiative of the Mayor of Curitiba, Brazil, Carlos Alberto Richa, a meeting on Cities and Biodiversity: Achieving the 2010 Biodiversity Target was held from 26 to 28 March 2007. The participants representing 34 mayors adopted the Curitiba Declaration on Cities and Biodiversity, which will be submitted to the ninth Conference of the Parties to the Convention on Biodiversity, together with the results of the municipal pre-conference to be held in Bonn in May 2008. To that end, a steering committee comprising the mayors of the following cities was established: Bonn, Germany; Curitiba, Brazil; Montreal, Canada; Nagoya, Japan; and Johannesburg, South Africa. The Curitiba meeting was prepared and serviced by an inter-agency task force chaired by the Executive Secretary, comprising the following organizations: UNEP, the United Nations Human Settlements Programme (UN-Habitat), the United Nations Institute for Training and Research (UNITAR), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Conservation Union, the International Council for Local Environmental Initiatives and the University College London (UCL) Environment Institute. As a result of the initiative, the secretariat has established a web page aimed at promoting best practices and disseminating lessons learned (see <http://www.cbd.int/authorities/default.shtml>).

D. Biodiversity and climate change

5. At the initiative of the Bureau of the twelfth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice, and in collaboration with the

^c The three objectives are as follows: the conservation of biological diversity; the sustainable use of its components; and the fair and equitable sharing of benefits arising out of the utilization of genetic resources.

Intergovernmental Panel on Climate Change, a round table meeting on the interlinkages between biodiversity and climate change was held from 19 to 20 March 2007, at the headquarters of the Convention on Biological Diversity. The expert meeting considered the relevance of the work of the Panel to the implementation of the programmes of work of the Convention and the cross-cutting issues on climate change and biodiversity. A message was adopted on climate change and biodiversity, which highlighted an implementation deficit concerning activities that link biodiversity and climate change mitigation and adaptation, and included a list of specific considerations for possible areas for further action as well as general views on emerging issues, such as reducing emissions from deforestation in developing countries and biofuels. In collaboration with the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention on Wetlands),^d the secretariat convened, in March 2007 in Gland, Switzerland, a meeting on climate change and wetlands. In addition, in collaboration with the secretariat of the United Nations Framework Convention on Climate Change, a meeting on deforestation and climate change was convened in Rome, Italy, on 17 March 2007, immediately following the eighteenth session of the Committee on Forestry of the Food and Agriculture Organization of the United Nations. The publication entitled *Guidance for Promoting Synergy among Activities Addressing Biological Diversity, Desertification, Land Degradation and Climate Change*,^e based on the work of the Ad Hoc Technical Expert Group on Biodiversity and Climate Change, was launched at the margins of the high-level segment of the twelfth meeting of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in November 2006 in Nairobi, Kenya.

E. International Day for Biological Diversity

6. The International Day for Biological Diversity was celebrated on 22 May 2007 under the theme "Biodiversity and climate change". In 2007, an unprecedented number of Parties marked the Day by organizing a series of events based on the written and visual materials that were prepared by the secretariat with the financial support of Norway. For the first time, an inter-agency task force, comprising the representatives of the relevant agencies, was established to prepare for this major event. The task force was also assigned to prepare for the International Year of Biodiversity, 2010 (resolution 61/203). The secretariat organized a high-level event at the Montreal Botanical Garden, with the participation of federal and provincial ministers, the Mayor of Montreal, the executive secretaries of the United Nations Framework Convention on Climate Change and the Ramsar Convention on Wetlands, representatives from the diplomatic corps and several high-level officials from Canada. More than 300 participants were also present for the ceremony. In addition, the secretariat used the occasion to launch its new website (<http://www.cbd.int>), and the Convention on Biological Diversity Linnaeus Lecture Series. A high-level celebration was held at UNEP headquarters in Nairobi, with the participation of the Executive Director of UNEP and Nobel Peace Prize winner Wangari Maathai. All regional offices of UNEP also celebrated the Day in their respective duty stations.

^d United Nations, *Treaty Series*, vol. 996, No. 14583.

^e Secretariat of the Convention on Biological Diversity, Technical Series No. 25 (Montreal, Quebec, Canada, 2006).

III. Overview of the outcome of meetings held since the submission of the previous report

A. Meeting of the Group of Technical Experts on an internationally recognized certificate of origin/source/legal provenance

7. The meeting of the Group of Technical Experts on an internationally recognized certificate of origin/source/legal provenance, held in Lima, Peru, from 22 to 25 January 2007, was convened in the context of the ongoing negotiations on an international regime on access to genetic resources and benefit-sharing. The Group successfully addressed the four main items of its terms of reference: (a) the possible rationale, the objectives and the need for an internationally recognized certificate of origin/source/legal provenance; (b) potential characteristics and features of different options of such an internationally recognized certificate; (c) distinctions between the options of certificate of origin/source/legal provenance and the implications of each of the options for achieving the objectives of articles 15 and 8(j) of the Convention; and (d) associated implementation challenges, including the practicality, feasibility, costs and benefits of the different options, as well as mutual supportiveness and compatibility with the Convention and other international agreements. The Group considered a number of potential characteristics and features of a certificate system, which will provide a useful basis for future discussions by the Ad hoc Open-ended Working Group on Access and Benefit Sharing. The recommendations of the experts will therefore be submitted to the fifth meeting of the Working Group, which will be held in October 2007, to negotiate an international regime on access and benefit-sharing.

B. Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress in the Context of the Cartagena Protocol on Biosafety

8. The third meeting of the Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress in the Context of the Cartagena Protocol on Biosafety, was held in Montreal from 19 to 23 February 2007. The Working Group continued to elaborate options for the elements of rules and procedures referred to in article 27 of the Protocol and considered information put together by the Secretariat on the identified topics, as well as expert presentations regarding (a) tools for valuation of biodiversity; (b) financial security to cover liability for damage resulting from transboundary movements of living modified organisms; and (c) transnational procedures. The participants recommended, in respect of international rules and procedures in the field of liability and redress for damage resulting from transboundary movement of living modified organisms, the future elements and structure of a possible decision of the ninth meeting of the Conference of the Parties to the Convention on Biological Diversity, to be held in Bonn, Germany, in May 2008.

C. Advisory Group for the programme of work on article 8(j) and related provisions

9. The second meeting of the Advisory Group for the programme of work on article 8(j) and related provisions was held in Montreal, Canada, from 30 April to 3 May 2007. The Group considered the preparation of the fifth meeting of the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions to be held in Montréal from 15 to 19 October 2007. The participants discussed the status of traditional knowledge, related trends and factors that may threaten the maintenance, preservation and application of traditional knowledge relevant to biological diversity. They also considered the vulnerabilities of indigenous and local communities to climate change and other threats, such as desertification and pollution, and the effects of those threats on voluntarily isolated communities. The impact of climate change on indigenous and local communities was also discussed.

D. Subsidiary Body on Scientific, Technical and Technological Advice

10. The twelfth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice was held in Paris at the headquarters of UNESCO from 2 to 6 July 2007 with the participation of 465 experts. The opening ceremony of was attended by Jean-Louis Borloo, the Minister of State of France, by the Director-General of UNESCO and by Nicolas Hulot. For the first time, the Subsidiary Body discussed, under a distinct agenda item, new and emerging scientific issues of relevance to its mandate. Under that item, the meeting considered the issues of biodiversity and biofuels. Recommendations on the procedure for the future identification and consideration of emerging issues were also adopted. The consideration of emerging issues was part of a series of innovative procedures introduced during the meeting aimed at enhancing the scientific underpinning of the Subsidiary Body. The innovative procedure was adopted at a meeting of the Bureau of the Subsidiary Body held in Paris in July 2006, following a brainstorming session with former, present and future chairs of the Subsidiary Body. In accordance with its agreed workplan, the Subsidiary Body undertook an in-depth review of the implementation of the Global Strategy for Plant Conservation. It considered also the findings of the Millennium Ecosystem Assessment on the work under the Convention and identified lessons learned from the preparation of the second edition of *Global Biodiversity Outlook*,^f finalized in 2006, with a view to enhancing the quality and relevance of the third edition to be prepared well in advance of the tenth meeting of the Conference of the Parties, to be held in 2010. Moreover, the meeting recommended the adoption of guidance on strengthening the assessment of the 2010 biodiversity target in dry and sub-humid lands and identified proposals for land-use options that promote biodiversity and generate income for indigenous and local communities. It also identified proposals for the integration of climate change activities within the programmes of work of the Convention, options for mutually supportive actions addressing climate change within the Rio Conventions, and agreed on a summary of the findings of the global assessment on peatlands, biodiversity and climate change. The twelfth meeting of the Subsidiary Body was preceded, on 1 July 2007, by a meeting of the Chairs of the scientific advisory

^f Secretariat of the Convention on Biological Diversity (Montreal, Canada, 2006).

bodies of the United Nations Framework Convention on Climate Change, the United Nations Convention to Combat Desertification, the Convention on Biological Diversity and other biodiversity-related conventions and the chairperson of the Scientific and Technical Advisory Panel of the Global Environment Facility, with the participation of the Executive Secretaries of the relevant conventions. It offered an opportunity, for the first time, to discuss collaboration among the scientific bodies of biodiversity-related Conventions. It was agreed that the second meeting of the Chairs would be held in Bonn, in May 2008, in conjunction with the ninth meeting of the Conference of the Parties. The twelfth meeting of the Subsidiary Body was preceded by a training session organized by the Secretariat, in collaboration with the Muséum national d'Histoire naturelle in Paris, on behalf of the Convention on Biological Diversity Consortium of Scientific Partners on Biodiversity.

E. Ad Hoc Open-ended Working Group on Review of Implementation of the Convention

11. The second meeting of the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention was held in Paris at the headquarters of UNESCO from 9 to 13 July 2007. More than 310 participants attended the meeting, which was preceded by a training workshop on national biodiversity strategies and action plans organized by GEF, UNEP and UNDP. It was also preceded by a meeting of the Bureau of the eighth Conference of the Parties, and chaired by the Permanent Representative of Brazil to the United Nations Environment Programme, Antônio José Rezende de Castro, which included, for the first time, a dialogue with the Chief Executive Officer and Chairperson of the Global Environment Facility. That meeting was followed by a high-level dialogue with the Chief Executive Officer and Chairperson of the Global Environment Facility and all the participants, on 9 July. The second meeting of the Working Group adopted recommendations on streamlining the guidance to GEF and recommended the adoption of a four-year (2010-2014) framework for programme priorities related to the utilization of GEF resources for biodiversity, coinciding with the fifth replenishment of GEF. To that end, a dialogue among the parties, with the participation of the Chief Executive Officer and Chairperson of the GEF, will be convened on 17 May 2008, immediately before the ninth session of the Conference of the Parties. The meeting also considered options and a draft strategy for resource mobilization in support of the implementation of the Convention and recommended that a message to the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus, to be held in Doha in 2008, be prepared and transmitted by the President of the ninth session of the Conference of the Parties. The meeting also considered the implementation of goals 2 and 3 of the strategic plan of the Convention adopted by the sixth session of the Conference of the Parties. So far, 147 countries have prepared their national strategies and action plans, and 12 parties have undertaken their revisions. The second meeting of the Working Group reviewed the experience gained on the development and implementation of national strategies and plans and called on parties that had not done so to develop them as soon as possible and preferably before 2010. The meeting also considered the mainstreaming of biodiversity into the development sector, including in the One United Nations programme. It also identified areas for capacity-building and access to and transfer of technology. Under the item on the

operations of the Convention, the meeting recommended steps for admitting qualified bodies and agencies, whether governmental or non-governmental, as observers to meetings of the Conference of the Parties and its subsidiary bodies.

IV. Cooperation with other conventions, international organizations and initiatives

A. Cooperation with other conventions, international organizations and initiatives

12. Pursuant to decision VIII/16 of the Conference of the Parties, efforts to strengthen cooperation with other conventions, international organizations and initiatives have been enhanced. The fifth meeting of the Liaison Group of the Biodiversity-related conventions was held in Gland, Switzerland, on 14 September 2006, and the seventh meeting of the Joint Liaison Group of the three Rio Conventions was held in Bonn, on 7 June 2007. A joint work programme between the Ramsar Convention on Wetlands and the Convention on Biological Diversity was finalized. An enhanced letter of intent with the Information and Communication Centre of the Barcelona Convention was signed on 12 March 2007. The letter of intent establishes a collaborative partnership between the two institutions on a number of initiatives and activities related to their respective mandate, in particular to the achievement of the 2010 biodiversity target. On 28 March 2007, at the closure of the meeting on Cities and Biodiversity: Achieving the 2010 Biodiversity Target, held in Curitiba, Brazil, a memorandum of cooperation with the United Nations Institute for Training and Research was signed with the aim of further enhancing cooperation and of helping parties to the Convention to respond to their capacity-building needs within the framework of their efforts towards achieving the 2010 biodiversity target. A memorandum of understanding with the Ministry for Economic Cooperation and Development of Germany was signed in Berlin on 5 June 2007. A memorandum of understanding with Countdown 2010 was signed in Brussels on 11 June 2007. A memorandum of understanding with the World Conservation Union was signed on 11 July 2007 in Paris, on the mainstreaming of biodiversity into the European development agencies. A memorandum of understanding was signed in Nairobi in February 2007 with Portugal and the Secretariat of the New Partnership for Africa's Development. A memorandum of understanding was signed with Wangari Maathai, aimed at minimizing the environmental impact of the secretariat processes.

B. Heads of Agencies Task Force on the 2010 biodiversity target

13. The first meeting of the Heads of Agencies Task Force on the 2010 biodiversity target was held on 15 September 2006. Taking place at the headquarters of the World Conservation Union in Gland, Switzerland, the meeting was attended by the initial signatories, including, in addition to the Union, UNEP, UNCTAD, UNDP, the World Wildlife Fund, the Convention on International Trade in Endangered Species of Wild Fauna and Flora,⁸ Biodiversity International and the

⁸ United Nations, *Treaty Series*, vol. 1651, No. 28395.

Ramsar Convention on Wetlands, and were joined by the Convention on the Conservation of Migratory Species of Wild Animals^b and UNITAR, which officially signed the memorandum of cooperation between agencies to support the achievement of the 2010 biodiversity target at the meeting. FAO and UNESCO, also represented at the meeting, initiated a request to their respective governing bodies to join the Task Force. The participants collectively agreed (a) to promote the integration of the 2010 biodiversity target into the Millennium Development Goals as a way of mainstreaming biodiversity into economic sectors and related work on indicators; (b) to make use of communication, education, public awareness and outreach to increase understanding about biodiversity and the 2010 target as a key component of capacity development; and (c) to increase inter-agency collaboration on specific issues.

C. Steering Committee of the Consortium of Scientific Partners on Biodiversity

14. The first meeting of the Steering Committee of the Consortium of Scientific Partners on Biodiversity was held at the Royal Botanic Gardens in Kew, United Kingdom of Great Britain and Northern Ireland, on 8 to 9 September 2006. A major outcome of the meeting was a set of activities based on the comparative advantage of the institutions involved in supporting the work programmes of the Convention on Biological Diversity. On 22 February 2007, the Montreal Nature Museums were linked to the Steering Committee of the Consortium by a memorandum of understanding signed between the City of Montreal and the secretariat. The memorandum of understanding establishes a formal framework for collaboration and exchange, aimed at developing and providing training programmes on strategic, technical or scientific issues for the effective implementation of the Convention.

D. International Civil Aviation Organization

15. A memorandum of understanding with the International Civil Aviation Organization was signed on 19 February 2007. The agreement formalizes the relationship and cooperation between the Convention on Biological Diversity and the International Civil Aviation Organization, in the latter's capacity as the lead United Nations agency in Montreal, which had existed on an ad hoc basis since the establishment of the secretariat in Montreal in 1996.

V. Recommendations

16. The General Assembly may wish, *inter alia*:

(a) To take note of the report of the Executive Secretary of the Convention on Biological Diversity, as submitted by the Secretary-General to the General Assembly at its sixty-second session;

(b) To urge Governments that have not acceded to the Convention and its Cartagena Protocol on Biosafety to consider doing so as soon as possible;

^b Ibid., vol. 993, No. 14537.

(c) To call upon parties and other Governments to enhance their efforts to achieve the 2010 biodiversity target, and to that end:

(i) Reaffirm the importance of the fourth meeting of the Conference of the Parties serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety, to be held in Bonn from 12 to 16 May 2008, and the ninth meeting of the Conference of the Parties to the Convention on Biological Diversity, to be held in Bonn from 19 to 30 May 2008, as well as its high-level segment on 28-30 May 2008;

(ii) Also reaffirm the importance of finalizing negotiations on the international regime on access and benefit-sharing as soon as possible and no later than 2010;

(iii) Invite parties, other Governments and relevant international organizations to celebrate in 2010 the International Year of Biodiversity;

(iv) Welcome the convening of the first meeting of the Chairs of the scientific advisory bodies of the biodiversity-related Conventions and the Rio Conventions aimed at enhancing scientific and technical collaboration for achieving the 2010 biodiversity target;

(v) Invite the Executive Secretary of the Convention on Biological Diversity to continue reporting to the General Assembly on the ongoing work regarding the Convention and its Protocol.



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Report of the Economic and Social Council

United Nations Population Award 2007

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Executive Director of the United Nations Population Fund on the United Nations Population Award, established by the Assembly in its resolution 36/201 of 17 December 1981. The report covers the year 2007 and was prepared in accordance with Economic and Social Council decision 1982/112 of 26 April 1982.

* A/62/150.

** The compilation of the data required to present the General Assembly with the most current information delayed the submission of the present document.



Report of the Executive Director of the United Nations Population Fund on the United Nations Population Award (2007)

I. Introduction

1. On 17 December 1981, the General Assembly adopted resolution 36/201 entitled "Establishment of the United Nations Population Award". The Award is presented annually to an individual or individuals, to an institution or institutions or to any combination thereof for the most outstanding contribution to increasing awareness of population questions or to finding solutions to them.
2. The laureate is selected by the Committee for the United Nations Population Award, which is composed of representatives of 10 States Members of the United Nations elected by the Economic and Social Council for a period of three years.
3. On 5 December 1986, by its decision 41/445, the General Assembly amended article 2, paragraph 1, of the regulations governing the Award (resolution 36/201, annex), so that an individual and an institution could share the Award.
4. On 26 May 1987, by its decision 1987/129, the Economic and Social Council amended the rules of procedure of the Committee for the Population Award accordingly.
5. At its resumed substantive session of 2006, on 15 December 2006, the Council elected the Czech Republic, Lesotho and Malaysia to serve on the Committee for a three-year term expiring on 31 December 2009. Lesotho subsequently resigned in January 2007. At its resumed organizational session for 2007, on 25 April 2007, the Council elected Algeria, the Democratic Republic of the Congo and the United Republic of Tanzania to fill outstanding vacancies on the Committee for a term beginning on the date of election and expiring on 31 December 2009.
6. During its first regular meeting, on 7 March 2007, the Committee elected Ambassador Anders Lidén (Sweden) as Chairperson for 2007.

II. 2007 United Nations Population Award

7. A total of 29 nominations were received for the 2007 United Nations Population Award from qualified nominators. Of these, 18 were for the individual category and 11 for the institutional category. On 1 May 2007, within the mandate given to it by the General Assembly, and after a thorough review of the nominations, the Committee selected Dr. Hossein Malek Afzali of the Islamic Republic of Iran and Dr. Allan Rosenfield of the United States of America in the individual category and Le Comité National de Population of Algeria and the National Population and Family Development Board of Malaysia in the institutional category.
8. Dr. Hossein Malek Afzali was selected in recognition of his exemplary achievements in the field of reproductive health, family planning and nutrition and for his pivotal role in influencing policymakers and religious leaders in the design and implementation of internationally acclaimed reproductive health programmes in the Islamic Republic of Iran.

9. Dr. Malek Afzali has been involved in many population activities. He was influential in the design and implementation of seven population and health surveys in the Islamic Republic of Iran (from 1985 to 1995). These surveys demonstrated that infant mortality rates were decreasing (from 51 deaths of children under age 1 per 1,000 births in 1985, to 28 per 1,000 in 1995). He has also undertaken research activities in reproductive health and evaluation of family planning and nutrition programmes. Dr. Malek Afzali was instrumental in the design of strategies for improving health delivery procedures, particularly in primary health care, adolescent health, reproductive health and family planning. His expertise was particularly acknowledged in the training of health personnel at all levels and his skills were used to organize the major campaigns on polio vaccination in the Islamic Republic of Iran and Afghanistan.

10. In the area of advocacy, Dr. Afzali was instrumental in engaging policymakers and religious leaders in the design and implementation of reproductive health programmes in the Islamic Republic of Iran. As a result of these programmes, the total fertility rate of the Islamic Republic of Iran dropped from 6.63 children per woman in 1980-1985 to the current rate of 2.04 in 2005-2010. The Iranian family planning programme is considered a model around the world and Dr. Malek Afzali has been one of the key policymakers in this area. Since 1999, Dr. Afzali has been the Deputy Minister for Research and Technology.

11. Dr. Allan Rosenfield was selected in recognition of his outstanding achievements nationally and internationally in the fields of population, women's reproductive health, obstetrics and gynaecology, human rights and health policy, which have been instrumental in shaping health care around the world, especially for women, and people with HIV.

12. At Columbia University, Dr. Rosenfield designed clinical, community-based and school-based reproductive health programmes in northern Manhattan, and these activities expanded to include the creation of family planning clinics and clinics for young adults, which continue to operate today. Dr. Rosenfield's work, aimed at reducing maternal mortality and the incidence of HIV/AIDS, has been instrumental in shaping health-care and reproductive health policies in many countries around the world, particularly in Africa. With a solid scientific background and varied professional experience, Dr. Rosenfield has participated in high-level advocacy activities, serving on the boards of numerous organizations or as part of advisory groups (for example, the United Nations Millennium Development Project, the World Health Organization, the National Academy of Sciences, the Open Society Institute/Soros Foundation, the David and Lucile Packard Foundation, the Kaiser Family Foundation, the Global Health Council, and the International Planned Parenthood Federation). He has been actively involved not only in reproductive health, but also in women's health and human rights issues.

13. Dr. Rosenfield has concentrated on two key issues — maternal mortality and HIV/AIDS. In 1985 he co-authored a seminal paper on maternal mortality entitled "Where is the M in MCH?", which was published in *The Lancet*. This paper subsequently led the Bill & Melinda Gates Foundation to launch the Averting Maternal Death and Disability (AMDD) programme, the only global programme of its kind which supports 85 projects in 50 countries. Dr. Rosenfield has received many awards and is admired nationally and internationally as a leader and an example to all who work in the field of population and health.

14. Dr. Rosenfield is currently the Director of the Department of Population and Family Health at the Mailman School of Public Health of Columbia University.

15. Le Comité National de Population of Algeria was selected in recognition of its outstanding achievements in the field of population education and family planning research and for its advocacy efforts in population policy, which were significant in achieving a moderate rate of population growth in Algeria.

16. The Comité National de Population was created in 1996 and its functions were formalized in 1998. The Comité National is in charge of preparing comprehensive analyses of population issues to facilitate the formulation of population policies and to assist in the incorporation of the population dimension into Algeria's social and economic development plans and programmes. Its activities are carried out through three commissions. The first is in charge of population and development issues; the second in charge of training, information, education, communication and advocacy; and the third in charge of the coordination and follow-up of programmes at the provincial level.

17. In 2001, shortly after the results of the fourth population and housing census were known, the Comité National de Population presented to the Government a report on the population-and-development situation of the country with a series of priorities and strategies covering the entire decade. The report proposed that the Government should give high priority to population policy in order to achieve a moderate rate of population growth and to ensure the use of family planning methods.

18. The National Population and Family Development Board of Malaysia was selected in recognition of its outstanding achievements in the fields of reproductive health, specifically family planning, infertility management, early cancer detection and special programmes for adolescents; socio-demographic research; and family development and welfare, including family education and counselling involving adolescents.

19. At its inception, the National Population and Family Development Board had been mainly concerned with the delivery of contraceptives. As Malaysia accelerated its process of modernization and as the connections between population and development improved, the Board acquired a prominent role in three areas of activity: (a) population, which includes socio-demographic research, monitoring of population trends, and programmes aimed at creating awareness among policymakers and managers; (b) family development, designed to promote family well-being with programmes and actions that include family education and counselling, and specific actions addressing adolescents; and (c) reproductive health, which includes the provision of family planning and a range of services, such as infertility management, early cancer detection screenings, psychosexual counselling, and special programmes for adolescents.

20. The National Population and Family Development Board had been created in 1966, through an act of Parliament, as a statutory body under the Department of the Prime Minister. For almost two decades, Malaysia's national development plans had proposed a reduction of the rate of population growth. In 1984, Malaysia redefined its population policy, and the old campaign based on the slogan "Two is enough" was replaced by measures aimed at decelerating the declining rate of population growth, with the goal of achieving a population of 70 million by the year 2100.

III. Financial matters

21. As at 31 December 2006, the Trust Fund had a total fund balance of \$766,736.84. Interest income in 2006 was \$32,410. Expenditures in 2007, including the prizes given to the four laureates, totalled \$83,849.22.
